United States Court of Appeals

for the Second Circuit

JOINT APPENDIX

76-7067

In The

United States Court of Appeals

For The Second Circuit

UNITED STATES FIDELITY & GUARANTY COMPANY,

Plaintiff-Appellant,

vs.

ROYAL NATIONAL BANK OF NEW YORK and MERRILL LYNCH, PIERCE, FENNER & SMITH, INC.,

Defendants-Appellees.

B

JOINT APPENDIX

Volume III, JA 601 - JA 900

JULIEN & SCHLESINGER, P.C.
Attorneys for Plaintiff-Appellant
2 Lafayette Street
New York, New York 10007
(212) 962-8020

HART & HUME
Attorneys for Defendant-Appellee
Royal National Bank
10 East 40th Street
New York, New York 10007
(212) 686-0920

KONHEIM, HALPERN & BLEIWAS
Attorneys for Defendant-Appellee
Merrill Lynch
11 Park Place
New York, New York 10007
(212) 267-5633

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Q Regardless of what name appeared on the sales slip or the delivery ticket for whom you were selling it?

MR. HART: Objection, your Honor. This is an issue in this case.

THE COURT: I will let him give his opinion.

A I am not in the brokerage business so I don't know how they look upon these things.

Q But you are in the banking business?

A That's right.

Q And you take these precautions in order to avoid liability, isn't that right?

A That's right.

Q And the liability would then be between the brokerage concern and your bank, would it not?

A Right.

Q Now, at the time that you were in the banking business at First National, you had a broker that used to do your brokerage business, didn't you?

A Many brokers.

Q Did you have an open and running account with them?

A They were designated, yes, we had open and running accounts.

Q In other words, you would send some stock down

there for sale, and then they would either credit your account or debit your account depending upon the transaction?

A We would receive a check and we would give a check. There was never any credit or debit.

Q You never had an open and running account with a brokerage house?

A No. They were cleared up immediately. There were no longs and shorts.

Q Now, you testified that the transactions or the bonds would be sent to the broker, isn't that right?

A Yes,sir, that's right.

Q Now, in the history of this case that was told to you by the attorneys that called you or engaged you, were you informed as to how these bonds reached Merrill, Lynch?

A I don't recollect if I was told exactly, but I would imagine they were delivered.

Q Do you know as a fact that they were delivered to Merrill Lynch?

MR. JULIEN: You mean does he personally know?

MR. HALPERN: Yes.

MR. JULIEN: I object to this. There is no testimony that this man has no direct knowledge of this.

MR. HALPERN: I said what he was told before

ebh-7 Sixt-cross

coming on the stand to testify as an expert.

THE COURT: What were you told about the delivery of these bills?

A That they were sold through Merrill Lynch and the assumption would be that they would be delivered.

Q Now, I ask you to look at this confirmation. What does that indicate to you after reading it?

MR. JULIEN: Haven't we been through this many times? Doesn't it speak for itself?

MR. HALPERN: Not through this witness.

THE COURT: It does, but I am going to let him tell us what he thinks of it.

A It is the confirmation of a purchase from the bank by Merrill Lynch of 10,000 U.S. treasury notes.

Q Well, let me ask you this, Mr. Sixt: Does it say here, "As principal we confirm purchase from you today. Please deliver to Manufacturers Hanover Trust Company of New York for our account."

Is that what it says, sir?

A That's what it says.

Q Now, as a banker, does that indicate to you that the bonds were delivered to the Manufacturers --

MR. JULIEN: I object to it.

THE COURT: I will let him answer.

A Delivered to the Manufacturers Trust Company for our account.

Q So it was not delivered to Merrill Lynch directly, is that right?

A According to this, no.

Q Is there anything to indicate that Merrill Lynch paid any moneys on this or that the money for these bonds was paid by Manufacturers Trust?

A Nothing on here to indicate payment by either.

Q You never saw any check from Merrill Lynch in payment of these bonds, did you?

A I didn't see a check for payment to Merrill Lynch.

MR. HALPERN: I have no other questions.

MR. JULIEN: No questions.

THE COURT: Mr. Hart?

MR. HART: No questions, your Honor.

THE COURT: You are excused.

(Witness excused.)

MR. JULIEN: That is the plaintiff's case, your Honor.

THE COURT: The plaintiff is resting.

MR. HART: Your Honor, I would like to make --

THE COURT: I would like to know one thing before

I accept that as a true rest, and that is whether or not we have in the evidence anywhere here the assignment.

MR. JULIEN: I will not have any more evidence, you say?

THE COURT: Whether you have in evidence the assignment.

MR. JULIEN: The pretrial order speaks of that, I understand.

THE COURT: I haven't seen it.

MR. HART: The thought crossed my mind, your Honor, but it is in the order.

MR. HALPERN: I wouldn't raise an issue on that.

MR. HART: There is no technical question being raised by Royal National Bank as the right of this plaintiff to assert the claim pursuant to the assignment.

MR. HALPERN: Same here, your Honor.

MR.JULIEN: I did want to do one thing, Judge, and this will only take a second. I wanted to ask your Honor or offer into evidence Answer 57 of Royal's response to our interrogatories, 57, 84, and 96, and one more, 45.

MR. HART: Your Honor, may I just take a moment. I would have no basis for objecting anyway, but I would just like to look at those.

THE COURT: All right.

(Pause.)

MR. HART: As I am looking at the answer, your Honor.

THE COURT: The answer to what?

MR. HART: The answer to the interrogatories which were just offered to be deemed to be read into the record.

MR JULIEN: Royal's answer?

MR. HART: Royal's answer to the plaintiff's interrogatories.

Does that carry with it the admission into evidence of the exhibits which were annexed to that answer? If so, I would have to take a moment just to look at them.

MR. JULIEN: No. It is just the language.

THE COURT: Just the answers.

All right, those responses are in.

MR. HART: Your Honor, at this time I would move to dismiss the action as against Royal National Bank of New York on the ground that upon the facts and the law the plaintiff has shown no right to relief.

Will your Honor take argument on that at this point?

THE COURT: I don't think in a case of this

nature argument is necessary.

MR. HART: I would agree, and I will not press the argument unless your Honor wants to hear it.

THE COURT: I don't really want to hear it. I will reserve with respect to the motion.

MR. HART: Then at this point I would like to move to amend the answer of defendant Royal National Bank to conform to the evidence by adding the three affirmative defenses which were referred to on the motion at the beginning of the case to amend, and I do have now a formal answer which I will serve upon counsel and hand up to the Court in connection with this motion.

MR. JULIEN: If your Honor please, your Honor reserved on this when originally we started out, and you will recall that where evidence began to come in referable to the intended amendment to the answer, your Honor was receiving it, but you still were reserving on it, so it has gotten no additional benefit by the fact that testimony is now in.

Ultimately your Honor will either grant or deny it.

MR. HART: I believe that there is a difference between a motion to amend an answer, or any pleading made prior to the trial, and a motion a motion made after

evidence has been taken in an attempt to conform the pleadings to the evidence, and that is why I make the second motion.

I see no substantive difference.

MR. JULIEN: It simply means he is lifting himself by his own bootstraps because once the motion is made, the Court reserves, and he says now --

THE COURT: Well, I am going to reserve with respect to the second motion because, as far as I am concerned, I have permitted you to continue to put in evidence. That doesn't mean that I am granting it.

MR. HART: I understand that.

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MR. JULIEN: That will be, of course, assuming I have an objection, which I need not state, as your Honor has said.

THE COURT: Right.

MR. HART: And finally, I renew the motion which I made earlier to strike all evidence relating to Treasury notes whose certificate numbers do not appear on the list which was attached to Plaintiff's Exhibit 1.

MR. JULIEN: Your Honor, isn't that a matter we can cover in our final briefs? I will show you the right, that we do have a right to recover, with respect to that, putting in all the evidence and the exhibits which have not yet been analyzed to show you that right exists. But isn't that something we have to brief.

THE COURT: I think so. I really think so.

MR. HART: Your Honor, then, is reserving decision on that motion as well?

THE COURT: Yes.

MR. HART: Thank you, your Honor.

MR. HALPERN: If it please your Honor, the defendant Merrill Lynch moves for a dismissal of the complaint against it on the ground that the complaint

claims a conversion on the part of Merrill Lynch of these bearer certificates.

I think the evidence is clear that the bonds were received from a depositor or a customer of Merrill Lynch, to wit, the Royal Bank.

Merrill Lynch never dealt with, never saw, never spoke to, and never had Mr. Mazzochi on its premises.

Even the testimony of the experts indicates that a bank, in taking securities, assumes some risk; not that I am alleging that there was any risk on the part of the bank because as a bearer instrument, as far as the stockbroker is concerned, we knew where we got it from. We knew the reputation of Royal. We knew that we got it from a customer. We don't have to go out and make an examination, or an inspection, or an investigation of Royal. If this man came in off the street and asked us to sell it, of course that would be a different situation there.

The plaintiffs have centered their case around the Walston case. I respectfully submit to your Honor that the Walston case dealt with a registered security. It dealt with a security in the name of a party. And because of the farce in that name, it came into the brokerage house and the court ruled that there was liability

there because of the reason that Walston was negligent under Rule 405 in not knowing the customer.

But here we know the customer, whether it is the National City Bank, the Royal Bank or the Chase Bank. Are we going to investigate if we have an open account with them? They are bearer instruments. There is nothing on the face of the instruments which would indicate anything for which we would have to have knowledge. Suspicion is not even knowledge of any commercial in the particular bond. It is handled in the regular course of business where we sell it in the regular course of business as a broker. We remitted certificates less our commission. We didn't sell them as "hot" goods, as they call it, for 10 per cent of their value. We did it in the regular course of business.

Now, I don't know whether under the code or the law of conversion Merrill Lynch could be held in this case for anything with respect to conversion of these bonds, and I say to your Honor that there should be a dismissal as against us because we do not stand in the same position as the bank does in this case, and I ask for a dismissal of the complaint against us.

THE COURT: Mr. Julien?

MR. JULIEN: If your Honor please, the one

thing counsel has not alluded to is that there is a very special rule governing the conduct of the brokerage house, and I refer to the New York Stock Exchange rule which requires every one of its members, including this one, to use due diligence to learn the essential facts relative to every customer and state it separately on every order accepted by the brokerage house.

Now, they have attempted to hide behind the fact that they have done business with Royal National Bank and that its document to Royal National Bank makes no reference to Mazzochi.

But this ignores the fact of the documents which they received, and it couldn't matter in the slightest whether they received them individually or through their agent; the binding effect is precisely the same. Each one of these documents says "For the account of Frank Mazzochi."

Now, when we asked what diligence, if any, was exerted by the Merrill Lynch firm with respect to those orders, the answer was clear: "None." No inquiry of any kind. They can tell from the documentation received that they are buying for the account of Mazzochi, and as the answers to the interrogatories show here, the bank is only an agent of Mazzochi, so that

they know that the origin is Mazzochi.

The fact that they handled it through their own bank makes no difference at all in what the requirements are for themselves to comply with an order of the stock exchange which has the force of law with respect to their conduct, their behavior, and their obligation with those that they handle.

And under those circumstances, to have made no inquiry relative to this large amount of notes that were coming through for the account of Mazzochi, is a failure to comply with that section which they are bound to comply with, and I think makes out a case.

MR. HALPERN: I think the legislature, in its wisdom, has seen fit to anticipate what my friend here said, and in Section 8-304, dealing with a broker, it says:

"If the security is in bearer form and has on it an unambiguous statement as to the property of a person," and so forth, "that is notice. However, if it has nothing on it to indicate anything" -- now, it can have Mazzochi, McDaniels, Halpern or Levy on it, but that's no indication to the broker that there is any imperfection with respect to this bond.

And, as I say, our legislature had the wisdom

to foresee this, and it says that a broker must have knowledge of the claim, or some defense or knowledge of such facts that the action taken on the security amounts to bad faith.

They haven't proven one scintilla of evidence in this case to indicate that Merrill Lynch had knowledge, should have known about it, or did know about it, and I say, as far as Merrill Lynch is concerned, there must be a dismissal in this case of the complaint.

MR. JULIEN: I have another point to bring to your attention: We are dealing here with a conversion. Merrill Lynch's conduct is controlled by more than just the statute.

It is well known that a statute may state the minimal requirements of a party, but not necessarily those which require it to act in good faith, and no better place, no better source, could be examined for what is good faith than that rule which is promulgated by the broker's own organization, the stock exchange man stating that they do certain things.

And this is a defense which they must prove. They have the burden, not we. They have the burden of proving, in a conversion case, that they have acted in good faith in purchasing and dealing with these

treasury bills.

Now, if we have reached the point in the law where good faith is the equivalent of closing one's eyes, then Merrill Lynch perhaps has satisfied that. But if good faith requires that you look at your documentation, and if it shows it is coming from one man who was handling and dealing with and asking for cash with respect to a large amount of securities, that's entirely different.

They have the burden of proving their good faith, not we, the burden of proving their absence of good faith.

THE COURT: I understand that.

MR. HALPERN: I just want to read one statement for the record.

If your Honor will look at the official comments, he brought up the question of a fiduciary relationship. Mere notice of the existence of the fiduciary relationship is not enough in itself to prevent a bona fide purchaser, and the purchaser is free to take the security on the assumption that the fiduciary is acting properly. Even they have considered that.

THE COURT: Do you have anything to say with respect to either one of these arguments?

MR. HART: No, your Honor.

THE COURT: All right. I am going to reserve, Mr. Halpern. I think this is a question of some importance. I do not think that the Walston case controls this situation, and I would prefer to look at it a little more closely so I am reserving my decision.

MR. HALPERN: I will be happy to give you the briefs in that case if it will help your Honor.

THE COURT: I don't think Walston applies.

MR. HALPERN: No, it doesn't apply but --

THE COURT: And there is an issue here, let me say in my own mind, which I am not quite satisfied plaintiff has met, and I want to have you go forward with your proof.

MR. HALPERN: Well, may I also include one statement, and that is a question of equitable estoppel, which I haven't toched on.

THE COURT: The Bunge case?

MR. JULIEN: We can differentiate that case and we are doing it in our brief. No problem with the Bunge case. Completely unrelated fact pattern.

MR. HALPERN: I am not saying the same

thing. I am talking about the theory of equitable estoppel.

THE COURT: All right. The record is complete on the motions. We are taking a recess until 2 o'clock.

For your information, we are going to work until 5.

(Luncheon recess.)

AFTERNOON SESSION

(2:10 p.m.)

MR. HART: Your Honor, it has been agreed among ocunsel for all parties that --

MR. JULIEN: Excuse me for one moment. I have one more th i ng to ask you. Forgive me.

THE COURT: Yes.

(Pause.)

MR. JULIEN: All right, we are agreed.

MR. HART: Your Honor, it has been agreed among counsel for all parties that instead of any further live testimony we will offer in evidence the depositions of the witnesses who would otherwise have been called, as well as other depositions which would have been by agreement offered without live witnesses. We will offer some documentary evidence, and the defendant Royal National Bank will then rest.

Accordingly, I offer in evidence as Defendant's Exhibit Q the deposition of Mr. Peter Walter, taken on September 19, 1969.

MR. HALPERN: No objection.

MR. JULIEN: No objection.

MR. HART: I offer the deposition of Irving H. Stolz, taken September 10, 1970, as Exhibit R.

MR. JULIEN: In connection with that, if your Honor please, Exhibit 3 for identification, which we have previously discussed with you, is offered in connection with that deposition.

MR. HART: I object to the admission of that document in evidence.

THE COURT: I will receive the document in evidence in the discretion of the court.

MR. HALPERN: I would like to point out that we were not present at this examination.

MR. JAROSLAWICZ: Every time I served a notice to examine copy went to Mr. Halpern's office, and I am sure the trial records of this court will indicate there was a service by me upon Mr. Halpern's office. I never omitted their office.

MR. JULIEN: It is really academic, is it not, because the testimony of Stolz relates to the responsibility of the bank and not Mr. Halpern's complaint.

THE COURT: It has nothing to do with him. So far as I am concerned it is binding on the bank, it is not binding on you.

MR. JULIEN: Your Honor, I have been shown Defendant's Exhibit S for identification, which is a

letter sent to Mr. Stolz by McGraw, on which there appears a reply by Mr. Stolz containing much hearsay. Ordinarily, there would be an objection, but in the interest of expedition I will not object to that, and we have agreed that the deposition of Mr. Nathan, who is quoted in this reply, will be received.

MR. HART: Yes, sir.

MR. HALPERN: I have no objection.

MR. JULIEN: So I have no objection to S. S has the Mazzochi affidavit annexed.

THE COURT: All right.

(Defendant Royal National Bank Exhibits Q, R and S were received in evidence.)

MR. JULIEN: Nathan's examination will be 18 in evidence.

THE COURT: All right.

(Plaintiff's Exhibit 18 was received in evidence.)

MR. HART: I offer defendant Royal National Exhibit T for identification.

MR. JULIEN: We don't have scratch notes annexed to T.

MR. HART: I do not offer objection, but I want your Honor to know at the appropriate time with

respect to this exhibit there is a slip of Herbert Bacher annexed to this, and he is somebody evidently connected with the bank, and it says, "Treasury bonds serial numbers questionable."

MR. HART: Your Honor, the deposition of Mr. Walter will reflect that he was sitting at Mr. Backer's desk when he received a telephone call from Mr. McGraw, and he took notes on a pad on Mr. Backer's desk, and those were the notes produced at the examination.

MR. JULIEN: Tell us who Mr. Backer is, please.

MR. HART: Mr. Backer was another bank official. I don't know who he was. But he had an office near Mr. Walter and Mr. Walter happened to be at his desk.

MR. JULIEN: He is a Royal Bank Official?

MR. HART: Yes.

THE COURT: All right.

(Defendant Royal National Bank Exhibit T was received in evidence.)

MR. HART: I will state in the record, as appears from the scratch notes themselves, they were marked during the examination of Mr. Walter, and the three documents which are part of Exhibit T each in-

dividually were marked as exhibits during that deposition.

MR. JULIEN: I have Defendant's Exhibit U. It is Treasury general regulation as to United States securities. I respectfully submit these are immaterial to the questions before your Honor, and do not bear upon them in any way.

MR. HART: Your Honor, again I urge that the regulation of the United States Government with respect to the handling of government securities is highly relevant and highly material to the question of how outside third parties should in turn deal with them.

MR. JULIEN: It makes no reference to outside third parties as to how they should deal with them.

THE COURT: I don't know whether it does or not, but I will take it provided that Mr. Hart will outline and will indicate to plaintiff's counsel and to Mr. Halpern what he feels is material and relevant to the issues before this court in the regulation.

MR. HART: Yes, sir. That would be as part of the brief, would it not?

THE COURT: Well, it would be as part of the brief, but you will also have to mark those regu-

lations so that I know what you are talking about.

MR. HART: My understanding was that you would not look at this except to the extent I called it specifically to your attention in the posttrial brief.

THE COURT: If you want to quote it, fine, but I will accept it.

(Defendant Royal National Exhibit U was received in evidence.)

MR. JULIEN: Your Honor, will you note my objection to that particular exhibit?

THE COURT: Your objection is noted. I don't know whether there is anything in there that is relevant.

MR. JULIEN: I understand.

If your Honor please, this deals with a matter you specifically said was irrelevant this morning, to wit, what is the total amount of securities marketed with respect to this particular issue. When I objected, you upheld my objection this morning, so in writing it has no effect better than orally.

THE COURT: I would still sustain the objection to Exhibit V for identification then.

(Defendant Royal National Bank Exhibit V was marked for identification.)

MR. HART: Then, your Honor, may I ask there be deemed to have been read into evidence answers Nos. 16, 20 and 21, plaintiff's answers to the interrogatories of defendant Merrill Lynch.

MR. JULIEN: Before we leave that subject, Judge, I don't want to delay finding out whether there are additional answers which may bear on 16, 20 and 21. Since they are before the court anyway, would it be permissible, should we find there are other answers amplifying these three selected by counsel, that we may make reference to them? And you can do the same with respect to them.

MR. HALPERN: May I ask all answers to interrogatories be before the court, and not just those particular.

THE COURT: They are all before the court, but I will not read unless you gentlemen refer me to something to read.

MR. HART: In other words, any interrogatory to which we call your attention by any party --

THE COURT: Will be read.

MR. JULIEN: So it is not necessary to say "I offer it in evidence" at the present time?

THE COURT. No.

MR. JULIEN: All right.

MR. HART: Your Honor, there are depositions which I would like to have marked in evidence. Some of them have been referred to before, and some have not, but according to my notes only three have been given exhibit numbers, so may I simply read the depositions, I will assign them numbers now, and then we can physically furnish them to the court at an appropriate time.

THE COURT: All right.

(Discussion off the record.)

MR. HART: I offer in evidence the following deposition transcripts with the following exhibit numbers:

As Exhibit W, the deposition of James E. Bills, taken September 9, 1969.

MR.JULIEN: No objection.

xxx (Defendant Royal National Exhibit W was received in evidence.)

MR. HART: As Exhibit X the deposition transcript of Mr.Angelo D.Dellatte, taken September 17 and 18, 1969.

MR. JULIEN: No objection.

xxx (Defendant Royal Exhibit X was received in evidence.)

MR. HART: As Exhibit Y, the transcript deposition of Mr. R.G. Hawthorne, Mrs. Mary Pryor and Bernard Holtshauer, taken on May 6, 1971.

MR.JULIEN: I wish to interrupt at this point, your Honor, so there may be inscribed upon the record the understanding which counsel have arrived at with the Court respecting all of these depositions.

It is understood by making no objection to the receipt of the depositions in evidence no counsel is deemed to have waived any objection he may have with respect to any questions and answers either as hearsay or anything else, other than the form of the question, of course.

THE COURT: All right.

MR. HART: That is agreed.

THE COURT: Yes.

(Defendant Royal National Exhibit Y was received in evidence.)

MR. HART: According to my notes, the transcript deposition of Mr.Kayner though said to be in evidence has not been given a designation, so we might as well mark that now.

MR. JULIEN: No, not so fast.

THE COURT: Isn't it in evidence?

MR. JULIEN: He was a live witness.

THE COURT: We can take his deposition in evidence in case you want to refer to something else. His memory was pretty poor. Don't you remember?

MR. JULIEN: I will never forget that.

MR. HART: Was I wrong about my understanding on that?

MR. JULIEN: I think those parts of his deposition on criminal trial I wished to bring to the Court's attention I made reference to in my examination of that witness.

THE COURT: But if you have anything you find later in his other deposition which you wish to refer to,

I think the whole deposition ought to be in evidence here.

MR. JULIEN: All right.

MR. HART: So then Exhibit Z will be the deposition transcript of Robert I. Kayner, taken October 14, 1969.

(Defendant Royal National Exhibit Z was received in evidence.)

MR. HART: Exhibit AA will be the transcript deposition of Edward I. McGraw, taken October 27, 1969.

(Defendant Royal National Exhibit AA was received in evidence.)

MR. HART: Exhibit BB will be the transcript deposition of Rudolph J. Santoro, taken October 20, 1969.

MR. JULIEN: I have a problem both with Kayner and Santoro.

THE COURT: I don't have any problem at all, Mr. Julien. That is the arrangement we made. Even though they appeared live, if you wish to refer to any part of their deposition which you felt was inconsistent with or which indicated some inconsistency, you are free to do it from their deposition. I nstead of wasting time going through the deposition and cross-examination.

MR. JULIEN: Ordinarily, we would all of us been loathe to have a party using that not for confrontation

purposes but as the direct examination he thinks is elicited from that witness, because much of that stuff is self-serving.

That is why with those I wanted to have live witnesses,you will recall.

THE COURT: Fine. I think that is great. But if you don't think I can distinguish self-serving from otherwise, this is a trial before a Court you know, it is a different animal.

MR. JULIEN: With respect to each of these witnesses who testified in the criminal proceedings, may it also be considered that that transcript of the criminal proceedings may be referred to as to each of these witnesses?

THE COURT: Yes. I agree with that.

MR. HART: That is Mr. Kayner and Mr. Santoro.

MR. JULIEN: Whoever testified in the criminal proceedings whose depositions have been received we can refer to that, too. All right?

THE COURT: Certainly.

MR. HART: Yes.

(Defendant Royal National Exhibit BB was received in evidence.)

MR. HART: Defendant Royal National Bank rests, your Honor.

MR. JULIEN: Now, if your Honor please, with respect to that defendant I move to strike out any material bearing upon an attempt to amend the answer here which relates to the three proposed defenses contained in the amended answer, and I also move for a judgment against that defendant.

THE COURT: Let the record show that Mr. Hart opposes your motion, and the Court will reserve with respect to your motion.

MR. JULIEN: Yes, sir.

MR. HART: Your Honor, I had prepared and served upon counsel today a proposed amended answer, the original of which the last I saw it was resting upon the table.

THE COURT: You find that while Mr. Halpern goes on the record.

MR. HART: I have found it, your Honor, and I would like to offer it to the Court. I don't believe it needs to be marked as an exhibit.

THE COURT: No.

MR. HART: I would therefore, with the Court's permission, just hand it up.

THE COURT: It is filed with the Court, and copies have been served upon the parties.

MR. HART: Yes, they have, your Honor.

THE COURT: All right.

MR. HALPERN: If your Honor please, I renew my motion to dismiss on the law and on the facts.

I also ask your Honor that in case judgment is directed by your Honor against the defendant Merrill Lynch that in accordance with the pleadings, judgment be rendered in favor of Merrill Lynch against the Royal National Bank.

I also at this time offer in evidence the statement of qualifications and opinion of Vincent P. Fay.

MR. JULIEN: If your Honor please, with respect to that offer I tell your Honor that all three counsel have been attempting to shorten the extent and length of this trial,and in that spirit while I do not concede the truth of any of the contents of the offer made by Mr. Halpern of the report of Mr.Fay, I will waive cross-examination of Mr. Fay.

THE COURT: And Mr. Hart?

MR. HART: I take the same position as Mr. Julien.

THE COURT: All right. It may be marked in evidence as Merrill Lynch Exhibit CC.

(Defendant Merrill Lynch Exhibit CC was

xxx

received in evidence.)

THE COURT: With respect to your motions, Mr. Halpern, I also reserve.

MR. HART: For the record, I renew the motion on behalf of defendant Royal National Bank to dismiss against the plaintiff, and I oppose the motion of defendant Merrill Lynch for a cross-claim against the defendant Royal.

MR. HALPERN: In addition to my motion for judgment, I also ask for judgment in behalf of both defendants dismissing the complaint of the plaintiff on the ground that they have failed to prove a cause of action.

THE COURT: Reserved.

MR. HART: I join in that motion, your Honor.

MR. JULIEN: I now move to strike the answers and the defenses of both defendants as insufficient in law. I separately move for judgment absolute and for a direction of judgment against both of them.

THE COURT: And I reserve.

MR. HALPERN: And I move for a direction of judgment, too, in favor of the defendant Merrill Lynch. I don't want to concede the plaintiff made out a prima facie case, and that is my reason for moving for a direction of a judgment.

THE COURT: I understand that, and I have reserved with respect to that.

MR. HART: I join in that motion.

THE COURT: All right. Reserved.

Now, we are at rest, and you may go home.

MR. HALPERN: Do you want to put down the dates for the record?

THE COURT: All parties will exchange briefs by the 30th of September, and any replies will be served on or before the 14th of October. That will be a deadline.

I trust that the briefs will be made in such form as will permit the Court somewhere along the line to draw findings of fact and conclusions of law therefrom.

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Frank W. Sixt (Resumed)	467			

EXHIBIT INDEX

Plaintiff	Identification	In Evidence
51		539
18		561
Defendant Royal National Bank		
Q,R,S		561
T		562
U,V		564
W,X		567
Y		568
Z, AA		569
BB		570
CC		572

EXHIBITS INTRODUCED DURING TRIAL

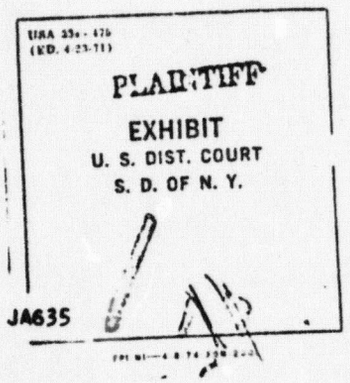


EXHIBIT 1 - LETTER OF THOMAS C. ROCKAFELLER TO W. E. HUTTON & CO. WITH ENCLOSURE

JA635

W. E. HUTTON & CO.

ESTABLISHED 1908

Deft Royal's EX 1 for ID
9/9/69 HK

301 FIRST NATIONAL BANK BLDG
CINCINNATI, OHIO
45202
PHONE 241-2560

September 28, 1966

Mr. Eric Yeiser
Wm. H. Kreidler Agency
First National Bank Building
Cincinnati 2, Ohio

Dear Buck:

In confirmation of our conversation of September 27, 1966, please be advised that W. E. Hutton & Co. makes claim under its Brokers Blanket Bond for the replacement of various United States Treasury 5% Bonds, due November 15, 1970. The principal amount of these bonds totals $215,000.00.

This claim also includes the coupons payable November 15, 1966 and all subsequent coupons which are attached to the above described securities. The total value of these coupons is $48,375.00.

A list of the numbers of the missing certificates was given to you yesterday, but I am enclosing a duplicate of the list for your convenience.

Thank you for your assistance in this matter.

Very truly yours,

Thomas C. Rockefeller

September 27, 1966

UNITED [illegible] - 5% DUE 11/15/70

CERTIFICATES :

10M	117182	10M	112271
10M	117183	10M	113307
10M	117184	10M	112[illegible]
10M	117185	10M	117651
10M	117186	5M	2295
10M	117187	5M	22[illegible]27
10M	117188	5M	31[illegible]3
10M	111900	5M	2214
10M	111901	5M	3024
10M	112243	5M	3131
10M	109144	5M	1925
10M	112254	5M	35053
10M	112255	5M	2103

Called Eric Yassin to report loss 9/27/66.

BEST COPY AVAILABLE

USA 33s - 475
(ED. 4-23-71)

PLAINTIFF

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

2

FPI-81—4-8-74-30M-2001

JA637

EXHIBIT 2 - SECURITY PAYMENT FROM W. E. HUTTON & CO.

1-S-6721

DEFT Rejected EXHIBIT
9/9/69 HK

1

W. E. HUTTON & CO.
14 WALL STREET, NEW YORK, N. Y. 10005

WE CONFIRM THE FOLLOWING TRANSACTION DESIGNATED BY THE CODE NUMBER OR SYMBOL IN THE SYMBOL COLUMN SUBJECT TO THE TERMS AND CONDITIONS SET OUT ON THE REVERSE SIDE HEREOF

QUANTITY	DESCRIPTION	SYMBOL	PRICE	COMMISSION	STATE TAX	SEC. FEE	OTHER	NET AMOUNT
215000	US TSY NOV 15 5% 70	98 20/32	21200.[illegible]		[illegible]2449		1344[illegible]	21720.59

B - BOUGHT
S - SOLD

UNITED STATES FIDELITY &
GUARANTY COMPANY
SUSPENSE ACCOUNT
ATT MR WINSHIP
[illegible] MAIDEN LANE
NEW YORK 5 NEW YORK

ACCOUNT NUMBER	COD	TRADE DATE	DUE DATE	SYM	PRIN
1-00175-1	S	11-[illegible]-69	11-[illegible]-69	9	A

TYPE OF ACCOUNT
1. CASH
2. MARGIN
3. SHORT
4. SPEC. SUB.
5. WHEN ISSUED
6. BROKER-DEALER

ALL CHECKS, INSTRUCTIONS, ETC. SHOULD BE SENT TO THE OFFICE SERVICING YOUR ACCOUNT.

PAYMENTS FOR SECURITIES BOUGHT SHOULD BE RECEIVED BY US NO LATER THAN THE DUE DATE TO AVOID AN INTEREST CHARGE.
DELIVERIES OF SECURITIES SOLD SHOULD BE RECEIVED BY US NO LATER THAN THE DUE DATE TO AVOID A POSSIBLE PREMIUM CHARGE.

USA 33s - 475
(ED. 4-23-71)

PLAINTIFF

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.



FPI-NI—4-8-74-30M-2001

JA638

EXHIBIT 8 - DATES & DELIVERY NOTICES FROM ROYAL NATIONAL BANK TO MERRILL LYNCH PIERCE FENNER & SMITH

ROYAL NATIONAL BANK OF NEW YORK
326 [illegible] St xx Ly

DATE 8/5/66

DELIVER TO: Merrill Lynch Pierce Fenner & Smith
70 Pine Street
New York City

FOR THE ACCOUNT OF: Frank Mazzochi Jr

QUANTITY	DESCRIPTION	NUMBER	IN NAME OF OR COUPONS ATTACHED	SECURITIES DATED
10,000PV	U S Treasury Note 5% Treasury Note	112255	due 11/15/70	

PLAINTIFF'S EXHIBIT 53-A-10
10/25/72
RICHARD KAUFMAN

SIGNATURE _____ AGAINST PAYMENT 10,015.89

P/f 6/24/68
ex. 8, in
RJC

BEST COPY AVAILABLE

ROYAL NATIONAL BANK OF NEW YORK

[illegible]

DATE 6/5/66

DELIVER TO: Merrill Lynch Pierce Fenner Smith

70 Pine St

NYC

FOR THE ACCOUNT OF: Frank Massoni

QUANTITY	DESCRIPTION	NUMBER	IN NAME OF OR COUPONS ATTACHED	SECURITIES DATED
60,000M	U S of America 5% Treasury note due 11/15/70	11[illegible] 1122[illegible] 1122[illegible] 111901 111900 3131 3024	due 11/15/70	

Hold Check
Fish he comes in

6/24/66

CUST DEL'D [illegible] 53B Q 10/20/66

RICHARD KAUFMAN

SIGNATURE [illegible] DELIVERY AGAINST PAYMENT [illegible]

FORM 110

BEST COPY AVAILABLE

JA640

ROYAL NATIONAL BANK OF NEW YORK

326 [illegible]

DATE 8/10/66

DELIVER TO: Merrill Lynch Pierce Fenner & Smith

70 Pine Street

New York City

FOR THE ACCOUNT OF: Frank Lazzochi Jr 243 0416-5

QUANTITY	DESCRIPTION	NUMBER	IN NAME OF OR COUPONS ATTACHED	SECURITIES DATED
$70,000PV	U S of America 5½ Treasury Notes due 11/15/70	117196/8 117192 112307 112271 112254	due 11/15/70 coupons 11/15/66 & SCA Ex 53 C Q 10/20/66	

SIGNATURE 6/24/69

AGAINST PAYMENT 70,093.70

RJ/ex 1/3 id
p 46

JA641

ROYAL NATIONAL BANK OF NEW YORK

326 East 149th St

DATE 9/13/66

DELIVER TO: Merrill Lynch Pierce Fenner & Smith
c/o Manufacturers Hanover Trust Co
40 Wall Street
New York City

FOR THE ACCOUNT OF: Frank Mazzochi Jr

QUANTITY	DESCRIPTION	NUMBER	IN NAME OF OR COUPONS ATTACHED	SECURITIES DATED
2,000PV	U S of America Treasury Notes 5% due 11/15/70	91369 92368 2136 2115 2995 32027 35059 1925 109184 117183 117184 117185	Ex 53 Q.D. 10/20/69	

SIGNATURE _____ 6/24/69

AGAINST PAYMENT 71,699.70

PBI EX 12, 1d
9-12

USA 33s - 475
(ED. 4-23-71)

PLAINTIFF
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

10

FPI-NI—4-8-74-30M-2001

JA642

EXHIBIT 10 - CREDIT ADVICE FORMS TO
FRANK MAZZOCHI, JR.

1-A

CREDIT

ROYAL NATIONAL BANK OF NEW YORK

Frank Mazzochi Jr.
247 So. 3rd St
Elmont N.Y.

New York, 8/5/66

We have SOLD for your account and risk as per your order dated 8/5/66 No. 829

AMOUNT	DESCRIPTION	PRICE	PRINCIPAL	INTEREST	COMMISSION & TAX	TOTAL
$10,000PV	U S Treasury 5% note due 11/15/70	99.000	9900.00	115.49		10,015.49

PLAINTIFF'S Ex. 50b
FOR IDENTIFICATION
RICHARD KAUFMAN 10/4/69

APPROVED BY P. Kayne

ISSUED BY R Santoro

TO BE USED AS BOOKKEEPER'S CREDIT TICKET 8/8/66

JA643

CREDIT

ROYAL NATIONAL BANK OF NEW YORK

Frank Mazzochi Jr

247 So. third Street

Brooklyn New York

New York, 8/5/66

We have SOLD for your account and risk as per your order dated 8/5/66 No. 30

PAR	DESCRIPTION	PRICE	PRINCIPAL	INTEREST	COMMISSION & TAX	TOTAL
60,000	U S of America 5% Treasury Notes due 11/15/70	99.000	59,400	692.93		60,092.93

PLAINTIFF'S EXHIBIT
Ex 50c
10/19/67

APPROVED BY R Kayne

ISSUED BY R Satpror

TO BE USED AS BOOKKEEPER'S CREDIT TICKET 8/1/66

FILE

ROYAL NATIONAL BANK OF NEW YORK

New York, 5/9/66

Frank Mazzochi Jr. 6-43-6411-1

217 [illegible] Street

[illegible] New York

We have SOLD for your account and risk as per your order dated 5/9/66 No. [illegible]

PAR	DESCRIPTION	PRICE	PRINCIPAL	INTEREST	COMMISSION & TAX	TOTAL
70,000.00	U S of America 5% Treasury Bonds due 11/15/70	93.3022	65,250.35	827.35		70,077.70

PLAINTIFF'S EX. 502 D
10/4/68
RICHARD KAUFMAN

APPROVED BY.....

ISSUED BY R Sansone

5/10/66

Great Northern Form 107

AUDITOR

ROYAL NATIONAL BANK OF NEW YORK

[illegible] New York, 9/13/65

[illegible]

[illegible]

[illegible]

We have SOLD for your account and risk as per your order dated [illegible] No. [illegible]

PAR	DESCRIPTION	PRICE	PRINCIPAL	INTEREST	COMMISSION & TAX	TOTAL
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]		[illegible]

PLAINTIFF'S EXHIBIT [illegible]

RIGHT [illegible]

APPROVED BY [illegible]

ISSUED BY [illegible]

9/13/[illegible]

Northern Form 107

JA546

CREDIT

ROYAL NATIONAL BANK OF NEW YORK

Frank Mazzochi Jr 643 0416 5

247 South 3rd St

Brooklyn New York

New York, 9/12/66

We have SOLD for your account and risk as per your order dated 9/12/66 No. #814

PAR	DESCRIPTION	PRICE	PRINCIPAL	INTEREST	COMMISSION & TAX	TOTAL
$72,000PV	U S Treasury Notes 5½ due 11/15/70	97.3032	70,015.00	1,1[illegible]5.70	71,0[illegible].70	

Sr 50 Q D 10/14/66

APPROVED BY.....

ISSUED BY.....

TO BE USED AS BOOKKEEPER'S CREDIT TICKET 9/13/66

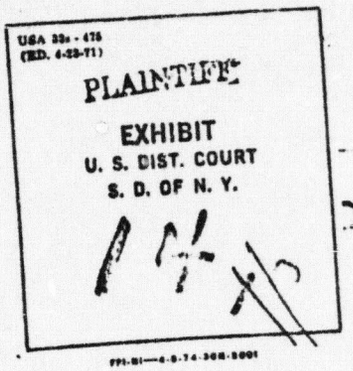


EXHIBIT 14 - LETTER OF SEPTEMBER 21, 1966 FROM C. M. HOFFMANN

September 21, 1966

The Federal Reserve Bank of New York
33 Liberty Street
New York, New York

Re: Report of Currency Transactions

Gentlemen:

Enclosed please find form representing an unusual currency transaction.

Mr. Frank Mazzochi, Jr., who is known to us as President of the Mutual Credit Union. The Mutual Credit Union, has had an account with us for many years.

Mr. Mazzochi, sold through this bank $140,000.00, face amount of Treasury Bonds and opened a checking account with the proceeds of this sale, amounting to $138,000.00.

Within a period of twenty (20) days this money was drawn from his account in twelve (12) cash transactions.

Very truly yours,

CMH/sl

C. M. Hoffmann
Assistant Vice President

EXHIBIT NN

USA 33s - 475
(ED. 4-23-71)
PLAINTIFF'S
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.
FPI-NI—4-8-74-30M-2001

EXHIBIT 16 - ENCLOSURES ATTACHED TO FOREGOING LETTER

Form TCR-1
U.S. Treasury Department
(Revised 8-3-59)

REPORT OF CURRENCY TRANSACTIONS

See Reverse for Instructions

Part A. PERSON OR ORGANIZATION CONCERNED IN TRANSACTIONS REPORTED

Name FRANK MAZZOCHI, JR.

Address 247 South 3rd Street, Brooklyn, New York

Business, profession, or occupation President of Mutual Credit Union

Part B. DESCRIPTION OF TRANSACTIONS

Date	U. S. Currency Involved		Nature of Transactions
	Total amount	Amount in denominations of $100 or higher	(State whether deposit, withdrawal, exchange of currency, cashing or purchase of check, etc.)
8/9/66	138,000-		Check Cashed
to			
8/29/66			

Additional information

Part C. FINANCIAL INSTITUTION REPORTING

Name Royal National Bank of New York

Address 326 East 149th Street (Number) (Street) Bronx, New York 10451 (City) (State)

INSTRUCTIONS

This report is required pursuant to Treasury Department regulations revised August 3, 1959 (31 Code of Federal Regulations 102).

Forms TCR-1 shall be prepared in original only for currency transactions involving United States currency as follows:

1. Transactions involving $2,500 or more of United States currency in denominations of $100 or higher;
2. Transactions involving $10,000 or more of United States currency in any denominations, and
3. Transactions involving any amount in any denominations,

which in the judgment of the financial institution exceed those commensurate with the customary conduct of the business, industry or profession of the person or organization concerned.

Reports shall be filed on or before the 15th day of the month following that in which the reported transactions occur, with the Federal Reserve Bank of the district in which the reporting financial institution is located. Copies of this form may be obtained from any Federal Reserve Bank.

IRS-D.C.

U.S. GOVERNMENT PRINTING OFFICE : 1959 O - 506193

Form TCR-1
U.S. Treasury Department
(Revised 8-3-59)

REPORT OF CURRENCY TRANSACTIONS

See Reverse for Instructions

10/27/69

Part A. PERSON OR ORGANIZATION CONCERNED IN TRANSACTIONS REPORTED

Name FRANK MARROCHI, JR.

Address 247 SOUTH 3rd STREET, BROOKLYN, NEW YORK

Business, profession, or occupation PRESIDENT OF MUTUAL CREDIT UNION

Part B. DESCRIPTION OF TRANSACTIONS

Date	U. S. Currency Involved		Nature of Transactions
	Total amount	Amount in denominations of $100 or higher	(State whether deposit, withdrawal, exchange of currency, cashing or purchase of check, etc.)
10-3-66	10,000.		Check cashed
10-4-66	61,000.		" "

Additional information

Part C. FINANCIAL INSTITUTION REPORTING

Name ROYAL NATIONAL BANK OF NEW YORK

Address 326 EAST 149th STREET (Number) (Street) BRONX, (City) NEW YORK (State) 10451

INSTRUCTIONS

This report is required pursuant to Treasury Department regulations revised August 3, 1959 (31 Code of Federal Regulations 102).

Forms TCR-1 shall be prepared in original only for currency transactions involving United States currency as follows:

1. Transactions involving $2,500 or more of United States currency in denominations of $100 or higher;
2. Transactions involving $10,000 or more of United States currency in any denominations, and
3. Transactions involving any amount in any denominations,

which in the judgment of the financial institution exceed those commensurate with the customary conduct of the business, industry or profession of the person or organization concerned.

Reports shall be filed on or before the 15th day of the month following that in which the reported transactions occur, with the Federal Reserve Bank of the district in which the reporting financial institution is located. Copies of this form may be obtained from any Federal Reserve Bank.

IRS-D.C.

U.S. GOVERNMENT PRINTING OFFICE : 1959 O - 509193

USA 33s - 475
(ED. 4-23-71)

PLAINTIFF
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

36

FPI-NI——8-74-30M-2001

EXHIBIT 36 - BANK ACCOUNT AGREEMENT
& AUTHORIZED SIGNATURES

BANK ACCOUNT AGREEMENT AND AUTHORIZED SIGNATURE(S) OF

FRANK MAZZOCHI, JR. 643 0416 5

(PRINT TITLE OF ACCOUNT)

In consideration of the opening and maintenance of this account by Royal National Bank of New York, hereinafter called "the Bank", the undersigned hereinafter called "depositor", agree(s) to the terms and conditions which appear on the reverse side hereof.

SIGNATURE ARRANGEMENT DATE 8-9-66

RULE OR BLOCK OUT ALL UNUSED SPACES

FRANK MAZZOCHI JR. (PRINTED NAME) WILL SIGN (SIGNATURE)

WILL SIGN

WILL SIGN

WILL SIGN

WILL SIGN Closed 11.5.66

WILL SIGN

INTRODUCED BY—REFERENCE McGRAW ACCOUNT ACCEPTED BY S.J.ZALKIN

FRANK MAZZOCHI, JR. 643 0416 5

FORM 602

BEST COPY AVAILABLE

NAME	FRANK MAZZOCHI JR.	BUSINESS	
HOME ADDRESS		TELEPHONE NO.	
BUSINESS ADDRESS	247 SOUTH 3 ST. BROOKLYN, N.Y.	TELEPHONE NO.	ST 2 3835
NAME		TELEPHONE NO.	
HOME ADDRESS		TELEPHONE NO.	
BUSINESS ADDRESS			

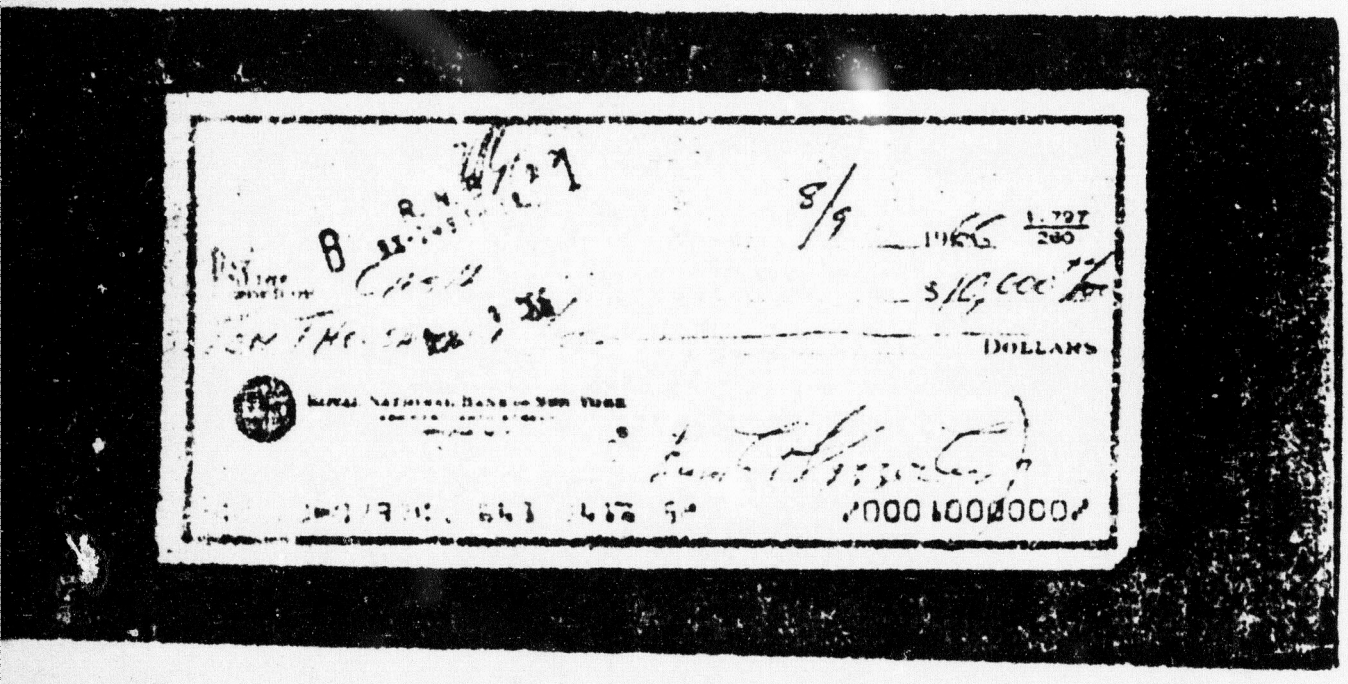
DEPOSITOR'S CONTRACT

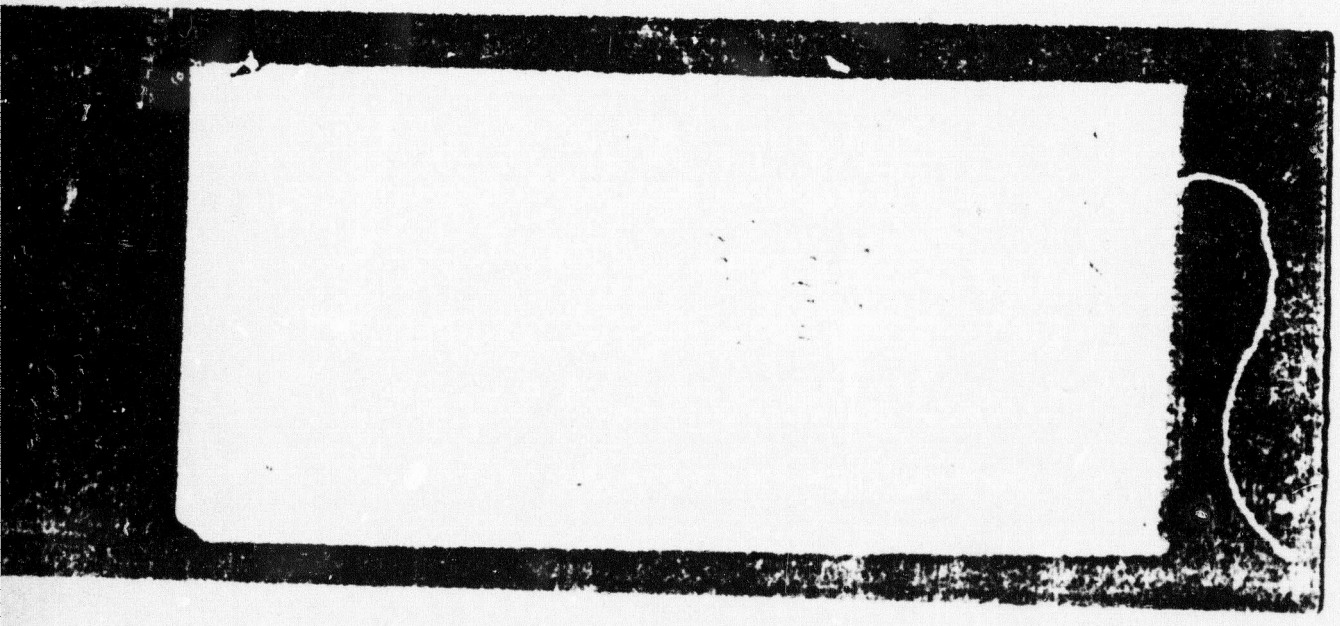
The depositor agree(s) to be bound by the following, as well as all the rules, regulations, conditions and limitations contained in any deposit ticket, checkbook, statement of account, receipt or any notice sent to depositor by the Bank and that the use of the deposit ticket by or for the depositor or the mailing or delivery of a monthly statement or receipt shall constitute due and sufficient notice to the depositor of all the rules, regulations, conditions and limitations and any modification thereof or addition thereto appearing thereon; that the Bank and all correspondents receive items for credit or collection subject to all the provisions of Article 13A of the New York Negotiable Instruments Law and to the present and future rules and regulations of the Federal Reserve System, except as herein expressly modified; that all items may be presented for payment by forwarding them directly to the drawee or directly or circuitously to any Federal Reserve Bank correspondent or any Clearing House Association under and subject to their respective rules, regulations and practises; that the exclusive way of stopping payment of any item shall be by the written request of the depositor signed in the manner set forth on the reverse side hereof and actually received at the office of the Bank where the item is payable, and that such a request shall not be effective for more than three months from the date of its receipt unless renewed by a new written request actually received at such office and that any such renewal or any subsequent renewal shall not be effective for more than three months from the date of its receipt; that the Bank shall not be liable for errors, inadvertence or oversight in payment or certification of checks, notes or drafts which are postdated or which depositor has requested the Bank not to pay or in the receipt and execution of such request, nor for nonpayment and return of items by reason of such payment or certification; for failure to present or late presentation of any item, loss of items in transit or otherwise while in the process of collection or otherwise; for failure to credit or delay in crediting the account with items deposited at an office other than the office at which the account is maintained and for nonpayment and return of checks, notes or drafts by reason of such failure to credit or delay in crediting the accounts; for loss of canceled vouchers and/or statements in transit or otherwise. The depositor waive(s) the protest of any negotiable instruments to which depositor is a party, acquired or held by the Bank or received by it for deposit, collection or otherwise. Depositor waive(s) a trial by jury and the right to interpose any counter-claim or set-off of any nature or description in any litigation between the Bank and the depositor. The bank is authorized to charge this account a service charge in accordance with its rules

EXH.
42

JA654

EXHIBIT 42 - FRONT & BACK OF CHECK
SIGNED BY FRANK MAZZOCHI, JR.





USA 33s - 415
(Ed. 4-23-71)
PLAINTIFF
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.
46

EXHIBIT 46 - STATEMENT OF QUALIFICATIONS AND OPINION OF THOMAS O. ROCKAFELLER

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES FIDELITY & GUARANTY COMPANY,

Plaintiff,

-against-

THE ROYAL NATIONAL BANK OF NEW YORK, et al.,

Defendants.

Statement of Qualifications and Opinion of Thomas O. Rockafeller

68 Civ. 2054 (HFW)

Qualifications

Presently member of the Chicago Board of Options Exchange and Executive Vice President of SPS Options Services, Inc.

W. E. Hutton & Company, New York, New York 1959 to 1974

Senior Partner in Charge of Operations & Commodities, 1973 to 1974

Responsible for overall staff of 300, including the direct reporting responsibility of the vice presidents of the Cashier's, Credit, Control, Dividend, Purchasing and Sales, Personnel, Data Processing (systems and programming), Order Room and Controller's departments.

Establish policy, coordinate financial spending, determine feasibility of extended lending to preferred accounts, define customer commissions, establish new business ventures.

Chairman, Operations Committee; Member, Administrative Committee of senior partners; Member, Branch Office Planning Committee.

General Partner, 1969 to 1973

Develop and direct activities of the Commodity Futures Division (including cocoa, coffee, sugar, metal, wheat, corn, stud lumber, plywood, soy beans, and oil, pork bellies, shell eggs, iced broilers, foreign currencies, Maine potatoes, wool, cotton, platinum, mercury, propane gas, orange juice concentrate, tomato paste, flax, rape seed, milo, gold, rubber, etc.). Gross commission of $300,000 monthly during first year. Personally screen all accounts.

Founded and directed Securities Processing, Inc., specialists in securities clearance; initially capitalized at $15,000 and sold at $4.6 million two years later.

Developed full benefits program. Responsible for buying W. E. Hutton insurance.

Assistant Operations Manager, 1964 to 1969

Responsible for branch office liaison with forty branches around the world, including Europe, Asia and South America. Trouble-shooting and coordinating financial errors within branches, managed Cashier's, Credit, Control, Dividend,

Purchasing, Personnel, Order Room and Sales departments.

Assistant Controller, 1962 to 1963

Responsible for manage of accounts payable, including authenticating expense accounts, authorizing payments, etc.

Assistant to the Operations Partner, 1961 to 1962

Troubleshooting for branch offices domestically and internationally.

Clerk, Messenger, Data Processing Clerk, 1959 to 1961

Memberships:

Chicago Board of Trade
Chicago Mercantile Exchange
International Monetary Market of Chicago Mercantile Exchange
Chicago, Board Options Exchange
Winnipeg Commodities Exchange
New York Mercantile Exchange
New York Cocoa Exchange
New York Coffee & Sugar Exchange
Commodity Exchange, Inc.

ASSOCIATE MEMBERSHIPS:

London Cocoa Terminal
London Sugar Terminal
London Coffee Terminal

ALLIED MEMBERSHIPS:

American Stock Exchange
New York Stock Exchange
Pacific Stock Exchange
Midwest Stock Exchange
P.B.W. Stock Exchange
Boston Stock Exchange

I have been advised that in this case, a brokerage firm received treasury notes accompanied by a delivery slip which said "for the account of Frank Mazzochi, Jr." From my knowledge and experience in the field of security transactions, this puts the broker on notice that the notes do not belong to the bank transmitting them, but to the individual Mazzochi. It then becomes incumbent upon the broker to either require that the bank secure proof of the right to possession from Frank Mazzochi or refuse to negotiate the treasury notes.

Separately stated, there is an additional requirement in every brokerage house to know not only the customer, but to know the circumstances surrounding the transaction; thus, from either standpoint, that is the recognition of Mazzochi as the customer or, if he was not, the order and delivery in the form it was received required the brokerage house to inquire into the circumstances surrounding the transaction, or learn more of Mazzochi's right to possession.

The failure to do these things, in my opinion, constitutes a deviation from proper and accepted brokerage customs and practices and also violates the rules of the stock exchange governing the conduct of brokerage firms.

In addition to being required to use due diligence to learn the essential facts relative to every customer, there is a separate duty to use due diligence to learn the essential facts relative to every order accepted by the brokerage firm. Large amounts of treasury notes for the account of the same individual, in my opinion, require the brokerage firm to ascertain the source of these treasury notes and the facts relative to them.

It is my further opinion that an order received from a branch of a bank is a clear recognition that the bank is dealing in the behalf of some customer and not itself. It is well known in the trade that transactions where a bank deals for itself originate in the bank's main office.

Dated: New York, New York
August 7, 1975

Thomas O. Rockafeller

PLAINTIFF'S
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.
45

EXHIBIT 48 - MEMORANDUM STATING RECEIPT OF $5,000. BY THE FEDERAL RESERVE BANK

UNITED STATES GOVERNMENT

Memorandum

TO : Chief, Division of Loans and Currency
Attention: Mr. Shewmaker, Securities Transactions Section

DATE: April 29, 1969

FROM : Chief, Division of Retired Securities

SUBJECT: Case of W. E. Hutton & Co.
New York 5, N. Y.

Inquiry 182,824

This refers to a Caveat Advice No. 54,269, dated December 13, 1966.

The records indicate that $5,000 5% Treasury Note, Series A-1970, No. 31,606 was received August 14, 1963, by the Federal Reserve Bank of New York for CPD transfer. The security was returned to stock for reuse on Deposit date of August 16, 1968.

Settle Headley

Ask RS to get Reserve Bank receipt on 5/5/69

Ask AD to f/u on this & the attached one

Rec'd the answer to date 1/30/70

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

UNA 33e - 475
(ED. 4-23-71)

PLAINTIFF

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

50

FPI-81—4-8-74-30M-2001

EXHIBIT 50 - STATEMENT OF QUALIFICATIONS AND OPINION OF FRANK SIXT

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES FIDELITY & GUARANTY COMPANY,	:	Statement of Qualifications and Opinion of Frank Sixt
Plaintiff,	:	
-against-	:	68 Civ. 2054 (HFW)
THE ROYAL NATIONAL BANK OF NEW YORK, et al.,	:	
Defendants.	:	

Qualifications

I began with the Nassau National Bank of Brooklyn, located at 50 Court Street in 1924 as a rack clerk and was shortly advanced to the note tellers department and loan and discount, brokers loan department and customer securities. Thereafter I was credit manager until 1929 when the Bank of America, located at 16 Court Street, Brooklyn, New York, took over the Nassau National Bank of Brooklyn at which time I was reassigned to the loan, customer securities department and handled the operations of the suspense department. I was in charge of 1100 secured loan accounts.

In 1931, the National City Bank took over the Bank of America and I remained in the position of loan, customer securities department. In my functions there, I not only handled registered securities -- stocks -- but bonds and government securities also, including treasury bills and treasury obligations of all sorts. In 1937, prior to the closing of our 16 Court Street branch, I was transferred to our Bay Ridge branch where I continued my function in the loan and customer securities department and was subsequently made Chief Clerk of the Branch. During the two years I functioned as Chief Clerk, I continued to acquire expertise in every aspect of banking business.

In about 1940, I was transferred on assignment with our controller's department to the head office at 55 Wall Street in Manhattan. My function, along with others, was to examine the operation of our branches and to review securities in the branches and check them against the records. In early 1941, I was transferred back to our Bay Ridge Branch and at the end of 1941 I was brought down to our main office in Brooklyn as Credit Manager at 181 Montague Street. In my capacity as credit manager, I would analyze financial statements and review collateral loans secured by all kinds of securities, including United States Treasury obligations.

In 1943, I was drafted into the United States Army. I was discharged in 1944. Upon my return to the bank in 1945, I was made an officer. My duties were making loans, handling customers, approving loans, both secured and unsecured, and new business. Many of these transactions involved my handling securities of all kinds, including all types of United States Government securities and treasury bills. In 1945, I became Assistant Manager of the Bush Terminal Branch and my duties continued as previously stated.

In 1954, I was promoted to Manager and opened the Jay Street office in the Board of Transportation Building for the bank in Brooklyn. My duties expanded because I was now in charge of an entire branch and also in charge of all loans. There was a vast amount of loan business, secured and unsecured, at this branch. In 1957, I was transferred to the Flatbush and Church Avenues branch in Brooklyn, also as manager. I remained there until 1964. During this time and subsequent to that time, I was called upon to conduct many seminars in branch lending procedure, secured and non-secured, for the National City Bank at various locations.

In 1964 I was requested to open a branch for the bank in Farmingdale, Long Island and continued in that capacity until 1969 at which time the bank was restructured and I was made an Assistant Vice President in charge of the Nassau North Division, located in Jericho, New York. This was our regional headquarters,

which included eight branches. My staff included four vice presidents and one assistant cashier. I supervised their loans and new business developments. I remained there until 1971 when I retired. During this period I also gave courses in branch lending to platform personnel of the Nassau division. After my retirement, I was requested to give additional courses to bank personnel.

In my total experience as a banking official, commencing in 1924 and then continuing from 1931 to 1971 at the National City Bank, the bulk of my experience over the years was in the loan and securities area.

Opinion

I have examined into the facts as laid out to me concerning the Royal National Bank's having accepted $212,000.00 of treasury bills from a person who was not a personal depositor of the bank and it is my opinion that the manner in which this transaction was handled was in violation of sound banking principles and reasonable commercial standards in that a bank now and in 1966 should have ascertained that the person presenting the treasury bills was in lawful possession of them when he seeks by one means or another to secure cash for them.

I am of the further opinion that many of the incidents which occurred during the period when the treasury bills were accepted put the bank on notice requiring that further inquiry be made as a matter of good faith. Included in the above,

without limiting it, was his statements that the bonds belonged to his family, no indicia of the right to ownership or possession by written documents, the customer's anxiousness to get cash in his hands as quickly as possible, his "testing the waters" first with a $10,000 note, and then when that succeeded, the use of larger amounts, all obviously of the same series, his residence being in an area not within the locality of a branch bank, the large cash withdrawals being made quickly and regularly, no verification of address or telephone number and no questions asked. These and other considerations lead me to the opinion that the bank cannot claim to have acted in good faith in this matter and in conformity with reasonable commercial standards.

Dated: New York, New York
August 7, 1975

FRANK SIXT

USA 33-475
(ED. 4-23-71)

DEFENDANT'S

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

D 102

FPI HI—4-8-74-30M-2001

EXHIBIT A - BANK SIGNATURE CARD ON MUTUAL CREDIT UNION & CORPORATE BANKING RESOLUTIONS

BANK ACCOUNT AGREEMENT AND AUTHORIZED SIGNATURE(S) OF

PLAINTIFF'S EXHIBIT 25 C

9/17/69 MUTUAL CREDIT UNION

(PRINT TITLE OF ACCOUNT)

D

RICHARD KAUFMAN

In consideration of the opening and maintenance of this account by Royal National Bank of New York, hereinafter called "the Bank", the undersigned hereinafter called "depositor", agree(s) to the terms and conditions which appear on the reverse side hereof.

SIGNATURE ARRANGEMENT 2 out of 4 DATE 3/20/65

Solomon Levine

RULE OR BLOCK OUT ALL UNUSED SPACES

(PRINTED NAME)		SIGNATURE
JACOB HAIMOWITZ	WILL SIGN	Jacob Haimowitz
FRANK MAZZOCHI JR.	WILL SIGN	Frank Mazzochi Jr.
LAWRENCE ROTHBERG	WILL SIGN	Lawrence Rothberg
DAVID FASSBERG	WILL SIGN	David Fassberg
	WILL SIGN	
	WILL SIGN	

INTRODUCED BY REFERENCE

ACCOUNT ACCEPTED BY

MUTUAL CREDIT UNION 3 829 824 6

FORM 602 - 8-64 REV.

BEST COPY AVAILABLE

NAME FRANK MAZZOCHI JR BUSINESS WHOLESALE TOYS

HOME ADDRESS 247 SOUTH 3RD ST BKLYN, NY TELEPHONE NO. STZ-3335

BUSINESS ADDRESS 222 BERRY ST BKLYN, NY TELEPHONE NO. EV7-6832

NAME LAWRENCE ROTHBERG ACCOUNTANT

HOME ADDRESS 610 SHALER BLVD RIDGEFIELD NJ TELEPHONE NO. 201-945-6951

BUSINESS ADDRESS 160 BROADWAY NEW YORK 38, NY TELEPHONE NO. WO4-4140

DEPOSITOR'S CONTRACT

The depositor agree(s) to be bound by the following, as well as all the rules, regulations, conditions and limitations contained in any deposit ticket, checkbook, statement of account, receipt or any notice sent to depositor by the Bank and that the use of the deposit ticket by or for the depositor or the mailing or delivery of a monthly statement or receipt shall constitute due and sufficient notice to the depositor of all the rules, regulations, conditions and limitations and any modification thereof or addition thereto appearing thereon; that the Bank and all correspondents receive items for credit or collection subject to all the provisions of Article 3A of the New York Negotiable Instruments Law and to the present and future rules and regulations of the Federal Reserve System, except as herein expressly modified; that all items may be presented for payment by forwarding them directly to the drawee or directly or circuitously to any Federal Reserve Bank correspondent or any Clearing House Association under and subject to their respective rules, regulations and practises; that the exclusive way of stopping payment of any item shall be by the written request of the depositor signed in the manner set forth on the reverse side hereof and actually received at the office of the Bank where the item is payable, and that such a request shall not be effective for more than three months from the date of its receipt unless renewed by a new written request actually received at such office and that any such renewal or any subsequent renewal shall not be effective for more than three months from the date of its receipt; that the Bank shall not be liable for errors, inadvertence or oversight in payment or certification of checks, notes or drafts which are postdated or which depositor has requested the Bank not to pay or in the receipt and execution of such request, nor for nonpayment and return of items by reason of such payment or certification; for failure to present or late presentation of any item, loss of items in transit or otherwise while in the process of collection or otherwise; for failure to credit or delay in crediting the account with items deposited at an office other than the office at which the account is maintained and for nonpayment and return of checks, notes or drafts by reason of such failure to credit or delay in crediting the accounts; for loss of cancelled vouchers and/or statements in transit or otherwise. The depositor waive(s) the protest of any negotiable instruments to which depositor is a party, acquired or held by the Bank or received by it for deposit, collection or otherwise. Depositor waive(s) a trial by jury and the right to interpose any counter-claim or set-off of any nature or description in any litigation between the Bank and the depositor. The bank is authorized to charge this account a service charge in accordance with its rules.

BEST COPY AVAILABLE

PLAINTIFF'S / DEFENDANT'S

BANK ACCOUNT AGREEMENT AND AUTHORIZED SIGNATURE(S) OF

B

5 26 60 8176 MUTUAL CREDIT UNION 382 9824 6

(PRINT TITLE OF ACCOUNT)

In consideration of the opening and maintenance of this account by Royal National Bank of New York, hereinafter called "the Bank", the undersigned hereinafter called "depositor", agree(s) to the terms and conditions which appear on the reverse side hereof.

SIGNATURE ARRANGEMENT Any Two (2) to SIGN DATE 1-19-66

RULE OR BLOCK OUT ALL UNUSED SPACES

FRANK Mizzoni Jr. (PRINTED NAME) WILL SIGN [signature] Pres.

ARNOLD DeTullio (PRINTED NAME) WILL SIGN [signature] Vice-Pres

LAWRENCE ROTHBERG WILL SIGN [signature] Treas

DAVID H. FASSBERG WILL SIGN [signature] Director

Solomon LEVINE WILL SIGN [signature]

/ / / / / WILL SIGN / / / / / / /

INTRODUCED BY--REFFRENCE

ACCOUNT ACCEPTED BY A. DELLATTE 3/24/67

MUTUAL CREDIT UNION 382 9824 6

FORM 602 - 3-64 REV.

NAME	LAWRENCE ROTHBERG	BUSINESS	ZEMLOCK, LEVY + BICK
HOME ADDRESS	640 SHALER BLVD, RIDGEFIELD, N.J.	TELEPHONE NO.	201-945-6251
BUSINESS ADDRESS	160 BROADWAY, NEW YORK, N.Y.	TELEPHONE NO.	610-9-4140
NAME	FRANK MAZZOCHI JR		
HOME ADDRESS	242 SO. 3RD. ST., BROOKLYN, N.Y.	TELEPHONE NO.	57-2-3855
BUSINESS ADDRESS	1613 FULTON ST, BROOKLYN, N.Y.	TELEPHONE NO.	778-8722

DEPOSITOR'S CONTRACT

The depositor agree(s) to be bound by the following, as well as all the rules, regulations, conditions and limitations contained in any deposit ticket, checkbook, statement of account, receipt or any notice sent to depositor by the Bank and that the use of the deposit ticket by or for the depositor or the mailing or delivery of a monthly statement or receipt shall constitute due and sufficient notice to the depositor of all the rules, regulations, conditions and limitations and any modification thereof or additions thereto appearing thereon; that the Bank and all correspondents receive items for credit or collection subject to all the provisions of Article 4A of the New York Negotiable Instruments Law and to the present and future rules and regulations of the Federal Reserve System except as herein expressly modified; that all items may be presented for payment by forwarding them directly to the drawee or directly or circuitously to any Federal Reserve bank correspondent or any Clearing House Association under and subject to their respective rules, regulations and practises; that the exclusive way of stopping payment of any item shall be by the written request of the depositor signed in the manner set forth on the reverse side hereof and actually received at the office of the Bank where the item is payable, and that such a request shall not be effective for more than three months from the date of its receipt unless renewed by a new written request actually received at such office and that any such renewal or any subsequent renewal shall not be effective for more than three months from the date of its receipt; that the Bank shall not be liable for errors, inadvertence or oversight in payment or certification of checks, notes or drafts which are postdated or which depositor has requested the Bank not to pay or in the receipt and execution of such request, nor for nonpayment and return of items by reason of such payment or certification; for failure to present or late presentation of any item, loss of items in transit or otherwise while in the process of collection or otherwise; for failure to credit or delay in crediting the account with items deposited at an office other than the office at which the account is maintained and for nonpayment and return of checks, notes or drafts by reason of such failure to credit or delay in crediting the accounts; for loss of cancelled vouchers and/or statements in transit or otherwise. The depositor waive(s) the protest of any negotiable instruments to which depositor is a party, acquired or held by the Bank or received by it for deposit, collection or otherwise. Depositor waive(s) a trial by jury and the right to interpose any counter-claim or set-off of any nature or description in any litigation between the Bank and the depositor. The Bank is authorized to charge this account a service charge in accordance with its rules.

PLAINTIFF'S EXHIBIT 27

DEFENDANT'S 9/7/67

BANK ACCOUNT AGREEMENT AND AUTHORIZED SIGNATURE(S) OF

MUTUAL CREDIT UNION

(PRINT TITLE OF ACCOUNT)

RICHARD KAUFMAN

In consideration of the opening and maintenance of this account by Royal National Bank of New York, hereinafter called "the Bank", the undersigned hereinafter called "depositor", agree(s) to the terms and conditions which appear on the reverse side hereof.

SIGNATURE ARRANGEMENT

Any Two Signatures

DATE 10/25/67 Dated 3-24-67

RULE OR BLOCK OUT ALL UNUSED SPACES

(PRINTED NAME)		SIGNATURE
Frank Mazzochi Jr. Pres.	WILL SIGN	
Arnold Dutcher V.P.	WILL SIGN	
Lawrence Rothberg Tra	WILL SIGN	
Louis M. D'Agostino Sec	WILL SIGN	
	WILL SIGN	
	WILL SIGN	

INTRODUCED BY—REFFRENCE Mr. Goldfine

ACCOUNT ACCEPTED BY A. Dellatte 11/19/67

382-9824-6

FORM 602 3-64 REV.

NAME	Lawrence Rothberg	BUSINESS	Zemlock Levy & Bick
HOME ADDRESS	640 B Shaler Blvd Ridgefield N.J.	TELEPHONE NO.	945 6951
BUSINESS ADDRESS	160 Broadway	TELEPHONE NO.	WO4 4140
NAME	Louis E. D'Agostino		
HOME ADDRESS	One Horizon Road Fort Lee N.J.	TELEPHONE NO.	224 6099
BUSINESS ADDRESS	82 No Broadway Hicksville N.Y.	TELEPHONE NO.	GE 3 3630

DEPOSITOR'S CONTRACT

The depositor agree(s) to be bound by the following, as well as all the rules, regulations, conditions and limitations contained in any deposit ticket, checkbook, statement of account, receipt or any notice sent to depositor by the Bank and that the use of the deposit ticket by or for the depositor or the mailing or delivery of a monthly statement or receipt shall constitute due and sufficient notice to the depositor of all the rules, regulations, conditions and limitations and any modification thereof or addition thereto appearing thereon; that the Bank and all correspondents receive items for credit or collection subject to all the provisions of Article 19A of the New York Negotiable Instruments Law and to the present and future rules and regulations of the Federal Reserve System, except as herein expressly modified; that all items may be presented for payment by forwarding them directly to the drawee or directly or circuitously to any Federal Reserve Bank correspondent or any Clearing House Association under and subject to their respective rules, regulations and practises; that the exclusive way of stopping payment of any item shall be by the written request of the depositor signed in the manner set forth on the reverse side hereof and actually received at the office of the Bank where the item is payable, and that such a request shall not be effective for more than three months from the date of its receipt unless renewed by a new written request actually received at such office and that any such renewal or any subsequent renewal shall not be effective for more than three months from the date of its receipt; that the Bank shall not be liable for errors, inadvertence or oversight in payment or certification of checks, notes or drafts which are postdated or which depositor has requested the Bank not to pay or in the receipt and execution of such request, nor for nonpayment and return of items by reason of such payment or certification; for failure to present or late presentation of any item, loss of items in transit or otherwise while in the process of collection or otherwise; for failure to credit or delay in crediting the account with items deposited at an office other than the office at which the account is maintained and for nonpayment and return of checks, notes or drafts by reason of such failure to credit or delay in crediting the accounts; for loss of cancelled vouchers and/or statements in transit or otherwise. The depositor waive(s) the protest of any negotiable instruments to which depositor is a party, acquired or held by the Bank or received by it for deposit, collection or otherwise. Depositor waive(s) a trial by jury and the right to interpose any counter claim or set-off of any nature or description in any litigation between the Bank and the depositor. The bank is authorized to charge this account a service charge in accordance with its rules.

PLAINTIFF'S Exhibit No. 9/17/69

JA672

RICHARD KAUFMAN

CERTIFICATE TO CORPORATE BANKING RESOLUTIONS AND BANK ACCOUNT AGREEMENT

I, the undersigned, Secretary of The Chase Credit Union, a New York corporation DO HEREBY CERTIFY that at a meeting of the Board of Directors of said corporation, duly and regularly called and held on the 27 day of April, 1965 a quorum being present, the following resolutions were unanimously adopted and recorded in the minute books of said corporation, kept by me, and are in accord with and pursuant to the charter and by-laws of said corporation, and are now in full force and effect, to wit:

RESOLVED, that

1. ROYAL NATIONAL BANK OF NEW YORK at

be and hereby is designated as a depository of this corporation, and officer, agent or employee of this corporation hereby is authorized to deposit any of the funds of this corporation in said Bank, either at the above designated branch office or at any of its branch offices. Said Bank may at any time refuse to accept and/or may return by ordinary mail or otherwise, the whole or any part of a deposit.

2. Any persons then holding any of the following offices or any of the following named signatories, without counter-signature or co-signature, except to the extent indicated as follows,

(Indicate below the titles only of the signing officers without specifying the names of any such officers, and state the full names of the signatories who are not officers. If the signature of more than a single officer or signatory is required, then clearly indicate in what manner they are to sign, i.e. whether joint signatures or any other special combinations are required, as, for example, "President and Treasurer", or "any two officers".)

Any 2 to Sign

are hereby authorized:

(a) To sign, make, draw, accept or indorse on behalf, or in the name, of this corporation any and all checks, notes, drafts, bills of exchange, acceptances, orders, or other instruments for the payment of money or the withdrawal of funds, including such as may bring about or increase an overdraft.

(b) To borrow money and to obtain credit for this corporation from said Bank on such terms as may seem to (him) (them) advisable and to make and deliver notes, drafts, acceptances, instruments of guarantee and indemnity, agreements and any other obligations of this corporation therefor in form satisfactory to said Bank, and, as security therefor, to assign, transfer, hypothecate, mortgage, pledge, trustee, withdraw, exchange and substitute any stocks, bonds, securities, mortgages, bills and accounts receivable, bills of lading, warehouse receipts, merchandise, insurance policies, certificates or any other property of every nature and description held by or belonging to this corporation, with full authority to indorse or guarantee the same in the name of this corporation; to execute and deliver all instruments of assignment, transfer, hypothecation, mortgage, pledge and trust; to discount any bills receivable or any other paper, whether or not negotiable, held by this corporation; to subordinate and assign any obligations and debts owned to this corporation by another or others, and in connection therewith, to execute and deliver instruments of subordination and assignment in form satisfactory to said Bank; to authorize and request said Bank to purchase, sell or exchange for the account of this corporation stocks, bonds, or other securities and foreign exchange; to execute and deliver all instruments required by said Bank in connection with any matters herein contained; and to affix the corporate seal.

3. Said Bank is hereby authorized to pay, cash or otherwise honor and charge to this corporation any such instrument and any instrument payable to or held by this corporation when indorsed as aforesaid, and also to receive same for credit to the account of or in payment from the payee, indorsee or any other holder thereof (including any officer, agent or signatory of this corporation), without limitation of amount and without inquiry as to the circumstances of issue, negotiation or indorsement thereof or as to the disposition of the proceeds thereof, even if drawn, indorsed or payable to cash, bearer or to the individual order of any signing officer, agent or signatory, or other officer or agent, or tendered in payment of his individual obligation.

4. Said Bank is further authorized to pay, cash or otherwise honor and charge to this corporation any such instrument without regard to any notation on any part thereof indicating the effect, purpose of condition of its issuance, delivery, receipt or acceptance, and without regard to any alteration, defacement or erasure of such notation, and said Bank is expressly relieved of any duty on its part to pass upon the regularity of such notation, or to make any inquiry in respect thereof or in respect of any alteration, defacement or erasure thereof. Said Bank may conclusively assume that the date of any such instrument, acceptance or indorsement is the true date of the making, drawing, acceptance or indorsement, as the case may be, completed in each instance by delivery on that date.

5. Any and all instruments deposited by or on behalf of this corporation with said Bank for discount, credit, collection or otherwise, whether payable to or to the order of this corporation or any officer or signatory of this corporation, may be indorsed (by handwriting, stamp impression or by any other means) by any officer or signatory of this corporation, acting alone, or by any other person authorized or purporting to be authorized so to do, with or without specifying the person who made, affixed or imprinted such indorsement or his authority so to do.

6. All the foregoing authorities shall be and continue in full force and effect until revoked or modified by written notice actually received by said Bank at its office wherein the account of this corporation is then maintained, setting forth a resolution that effect stated to have been adopted by the Board of Directors of this corporation, and signed by one purporting to be the secretary or an assistant secretary of this corporation and bearing the purported seal of this corporation, provided, that such notice shall not be effective with respect to any exercise of said authorities prior to the receipt thereof nor with respect to any checks or other instruments for the payment of money or the withdrawal of funds dated on or prior to the date of such notice, but presented to the Bank after receipt of such notice and said Bank is hereby authorized at all times to rely upon the last notice, certificate or communication received by it, when so authenticated, as to any resolution of this corporation or as to the persons who from time to time may be officers or signatories of this corporation, or as to their respective specimen signatures and/or as to any other corporate matters, and said Bank shall be held harmless in such reliance, even though such resolution may have been changed.

7. In case of conflicting claims or disputes, or doubt on the Bank's part as to the validity, extent, modification, revocation or exercise of any of the authorities herein contained, the Bank need not recognize nor give any effect to any notice from any office, director, stockholder or signatory of this corporation, or from any other person, purporting to cancel, restrict or change any of said authorities or the exercise thereof, unless the

(OVER)

Form 406

Bank is required to do so by the judgment, decree or order of a court having jurisdiction of the subject matter and of the parties to such conflicting claims or disputes or unless the Bank receives indemnity in form, amount and with sureties acceptable to it, against any and all loss, liability, damage, costs and expenses caused by its recognizing or giving effect to such notice.

8. This corporation agrees that the exclusive way of stopping payment of any items shall be by written order of this corporation, signed in the manner hereinabove provided for the withdrawal of funds and actually received at the office of the Bank where the item is payable. This corporation further agrees that the Bank shall not be liable for payment or certification, through inadvertance or oversight, of post-dated checks or of checks which this corporation has requested the Bank not to pay, nor for non payment and return of items by reason of such payment or certification."

9. Unless this corporation shall notify the Bank in writing within thirty days of the delivery or mailing of any statement of account and cancelled vouchers, of any claimed errors in such statement, or that this corporation's signature upon any such returned voucher was forged, or that any such voucher was made or drawn without the authority of this corporation or not in accordance with the signature arrangement set forth in paragraph 2 "(a)" hereof, or that it was raised or otherwise altered, or unless this corporation shall notify said Bank in writing within six months after the delivery or mailing of any such voucher that any indorsement thereon was forged or was made without the authority of the indorser, said statement of account shall be considered correct for all purposes and said Bank shall not be liable for any payments made and charged to the account of this corporation or for any other errors in the statement of account as rendered to it. No legal proceeding or action shall be brought by this corporation against the Bank to recover any payment of any instrument upon which any signature or indorsement has been forged or which was drawn, made, accepted or indorsed without the authority of this corporation or the indorser or not in accordance with the signature arrangements stated in paragraph "2 (a)" hereof, or which was raised or altered, unless (a) this corporation shall have given the written notice as provided hereinabove, and (b) such legal proceeding or action shall be commenced within one year after the date when such statement and cancelled vouchers were delivered or mailed to this corporation. Said Bank shall not be liable for any loss of items in transit or otherwise while in the process of collection, loss in transit or otherwise of cancelled vouchers and/or statements, or loss resulting from failure to present or by reason of late presentation of any item.

10. This corporation also agrees to be bound by all the rules, regulations, conditions, limitations and agreements contained in any signature card, deposit ticket, check book, pass book, statement of account, receipt, instrument or other agreement received by this corporation from the Bank or delivered to the Bank by this Corporation, with the same effect as if each and every term thereof were set forth in full herein and made a part hereof.

11. This corporation hereby waives protest of any negotiable instruments deposited with or held by the Bank to which this corporation is a party, and this corporation hereby consents to any and every renewal or extension of time or other modification which may be granted or made with respect to such negotiable instruments, and any such renewal or extension of time or other modification shall be deemed to have been granted or made with the full and express reservation by the Bank of all its rights or recourse against this corporation in respect of such negotiable instruments.

12. In the event of any litigation between the Bank and this corporation connected with the resolutions and agreements contained in this document or resulting from any transaction hereunder or in any other litigation between the Bank and this corporation, the right to a trial by jury is hereby waived by this corporation. The Bank shall not, by any act, delay, omission or otherwise, be deemed to have waived any of its rights or remedies hereunder unless such waiver be in writing, signed by the Bank, and then only to the extent therein set forth; failure of the Bank to insist on compliance with, or to exercise any right and/or remedy granted to it by, the resolutions and agreements set forth in this document or any of its rules, regulations, conditions, limitations and agreements contained in any signature card, deposit ticket, check book, pass book, statement of account, receipt, notice, instrument or other agreement shall not be deemed a waiver thereof or a bar thereto on any other occasion.

13. The signature of the president or secretary or a vice-president or an assistant secretary of this corporation at the foot hereof shall constitute this document not only a true copy of the resolutions referred to in this certificate but also an agreement by this corporation with the Bank with respect to all of the matters herein contained.

I FURTHER CERTIFY that the persons herein designated as officers of this corporation have been duly elected to and now hold the offices in this corporation set opposite their respective names, and that the following are the authentic, official signatures of the said respective officers and of the named signatories who are not corporate officers, to wit:

Name (Typewritten or printed)	Office	Signature
FRANK MAZZOCHI	President	
JACOB HARWITZ	Vice-President	
SOL LEVINE	Secretary	
LAWRENCE ROTHBERG	Treasurer	
DAVID FASSBERG		

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of this corporation by order of the Board of Directors thereof this day of , 19 , and I do further acknowledge, on behalf of said corporation, that the foregoing document is also an agreement by said corporation with said Bank with respect to the matters therein set forth.

Secretary

(Corporate Seal)

I, the undersigned, President of the corporation above named, do hereby certify that the foregoing certificate is in all respects true and contains a true copy of the resolutions regularly adopted by the Board of Directors of said corporation in the manner therein stated, and I do further acknowledge, on behalf of said corporation, that the foregoing document is also an agreement by said corporation with said Bank in respect to the matters therein set forth.

Dated: , 19

President

PLAINTIFF'S Ex 29 R
DEFENDANT'S 2/17/67

JA674

RICHARD KAUFMAN

CERTIFICATE TO CORPORATE BANKING RESOLUTIONS AND BANK ACCOUNT AGREEMENT

I, the undersigned, Secretary of MUTUAL CREDIT UNION, a DOMESTIC corporation DO HEREBY CERTIFY that at a meeting of the Board of Directors of said corporation, duly and regularly called and held on the 19th day of FEBRUARY, 1966, a quorum being present, the following resolutions were unanimously adopted and recorded in the minute books of said corporation, kept by me, and are in accord with and pursuant to the charter and by-laws of said corporation, and are now in full force and effect, to wit:

RESOLVED, that

1. ROYAL NATIONAL BANK OF NEW YORK at

be and hereby is designated as a depository of this corporation, and officer, agent or employee of this corporation hereby is authorized to deposit any of the funds of this corporation in said Bank, either at the above designated branch office or at any of its branch offices. Said Bank may at any time refuse to accept and/or may return by ordinary mail or otherwise, the whole or any part of a deposit.

2. Any persons then holding any of the following offices or any of the following named signatories, without counter-signature or co-signature, except to the extent indicated as follows,

(Indicate below the titles only of the signing officers without specifying the names of any such officers, and state the full names of the signatories who are not officers. If the signature of more than a single officer or signatory is required, then clearly indicate in what manner they are to sign, i.e. whether joint signatures or any other special combinations are required, as, for example, "President and Treasurer", or "any two officers".)

OFFICERS (TWO OR AUTHORIZED) SIGNATURES
ANY TWO ~~DIRECTORS~~ TO SIGN

are hereby authorized:

(a) To sign, make, draw, accept or indorse on behalf, or in the name, of this corporation any and all checks, notes, drafts, bills of exchange, acceptances, orders, or other instruments for the payment of money or the withdrawal of funds, including such as may bring about or increase an overdraft.

(b) To borrow money and to obtain credit for this corporation from said Bank on such terms as may seem to (him) (them) advisable and to make and deliver notes, drafts, acceptances, instruments of guarantee and indemnity, agreements and any other obligations of this corporation therefor in form satisfactory to said Bank, and, as security therefor, to assign, transfer, hypothecate, mortgage, pledge, trustee, withdraw, exchange and substitute any stocks, bonds, securities, mortgages, bills and accounts receivable, bills of lading, warehouse receipts, merchandise, insurance policies, certificates or any other property of every nature and description held by or belonging to this corporation, with full authority to indorse or guarantee the same in the name of this corporation; to execute and deliver all instruments of assignment, transfer, hypothecation, mortgage, pledge and trust; to discount any bills receivable or any other paper, whether or not negotiable, held by this corporation; to subordinate and assign any obligations and debts owned to this corporation by another or others, and in connection therewith, to execute and deliver instruments of subordination and assignment in form satisfactory to said Bank; to authorize and request said Bank to purchase, sell or exchange for the account of this corporation stocks, bonds, or other securities and foreign exchange; to execute and deliver all instruments required by said Bank in connection with any matters herein contained; and to affix the corporate seal.

3. Said Bank is hereby authorized to pay, cash or otherwise honor and charge to this corporation any such instrument and any instrument payable to or held by this corporation when indorsed as aforesaid, and also to receive same for credit to the account of or in payment from the payee, indorsee or any other holder thereof (including any officer, agent or signatory of this corporation), without limitation of amount and without inquiry as to the circumstances of issue, negotiation or indorsement thereof or as to the disposition of the proceeds thereof, even if drawn, indorsed or payable to cash, bearer or to the individual order of any signing officer, agent or signatory, or other officer or agent, or tendered in payment of his individual obligation.

4. Said Bank is further authorized to pay, cash or otherwise honor and charge to this corporation any such instrument without regard to any notation on any part thereof indicating the effect, purpose of condition of its issuance, delivery, receipt or acceptance, and without regard to any alteration, defacement or erasure of such notation, and said Bank is expressly relieved of any duty on its part to pass upon the regularity of such notation, or to make any inquiry in respect thereof or in respect of any alteration, defacement or erasure thereof. Said Bank may conclusively assume that the date of any such instrument, acceptance or indorsement is the true date of the making, drawing, acceptance or indorsement, as the case may be, completed in each instance by delivery on that date.

5. Any and all instruments deposited by or on behalf of this corporation with said Bank for discount, credit, collection or otherwise, whether payable to or to the order of this corporation or any officer or signatory of this corporation, may be indorsed (by handwriting, stamp impression or by any other means) by any officer or signatory of this corporation, acting alone, or by any other person authorized or purporting to be authorized so to do, with or without specifying the person who made, affixed or imprinted such indorsement or his authority so to do.

6. All the foregoing authorities shall be and continue in full force and effect until revoked or modified by written notice actually received by said Bank at its office wherein the account of this corporation is then maintained, setting forth a resolution that effect stated to have been adopted by the Board of Directors of this corporation, and signed by one purporting to be the secretary or an assistant secretary of this corporation and bearing the purported seal of this corporation, provided, that such notice shall not be effective with respect to any exercise of said authorities prior to the receipt thereof nor with respect to any checks or other instruments for the payment of money or the withdrawal of funds dated on or prior to the date of such notice, but presented to the Bank after receipt of such notice and said Bank is hereby authorized at all times to rely upon the last notice, certificate or communication received by it, when so authenticated, as to any resolution of this corporation or as to the persons who from time to time may be officers or signatories of this corporation, or as to their respective specimen signatures and/or as to any other corporate matters, and said Bank shall be held harmless in such reliance, even though such resolution may have been changed.

7. In case of conflicting claims or disputes, or doubt on the Bank's part as to the validity, extent, modification, revocation or exercise of any of the authorities herein contained, the Bank need not recognize nor give any effect to any notice from any officer, director, stockholder or signatory of this corporation, or from any other person, purporting to cancel, restrict or change any of said authorities or the exercise thereof, unless the

(OVER)

Bank is required to do so by the judgment, decree or order of a court having jurisdiction of the subject matter and of the parties to such conflicting claims or disputes or unless the Bank receives indemnity in form, amount and with sureties acceptable to it, against any and all loss, liability, damage, costs and expenses caused by its recognizing or giving effect to such notice.

8. This corporation agrees that the exclusive way of stopping payment of any items shall be by written order of this corporation, signed in the manner hereinabove provided for the withdrawal of funds and actually received at the office of the Bank where the item is payable. This corporation further agrees that the Bank shall not be liable for payment or certification, through inadvertance or oversight, of post-dated checks or of checks which this corporation has requested the Bank not to pay, nor for non payment and return of items by reason of such payment or certification."

9. Unless this corporation shall notify the Bank in writing within thirty days of the delivery or mailing of any statement of account and cancelled vouchers, of any claimed errors in such statement, or that this corporation's signature upon any such returned voucher was forged, or that any such voucher was made or drawn without the authority of this corporation or not in accordance with the signature arrangement set forth in paragraph 2 "(a)" hereof, or that it was raised or otherwise altered, or unless this corporation shall notify said Bank in writing within six months after the delivery or mailing of any such voucher that any indorsement thereon was forged or was made without the authority of the indorser, said statement of account shall be considered correct for all purposes and said Bank shall not be liable for any payments made and charged to the account of this corporation or for any other errors in the statement of account as rendered to it. No legal proceeding or action shall be brought by this corporation against the Bank to recover any payment of any instrument upon which any signature or indorsement has been forged or which was drawn, made, accepted or indorsed without the authority of this corporation or the indorser or not in accordance with the signature arrangements stated in paragraph "2 (a)" hereof, or which was raised or altered, unless (a) this corporation shall have given the written notice as provided hereinabove, and (b) such legal proceeding or action shall be commenced within one year after the date when such statement and cancelled vouchers were delivered or mailed to this corporation. Said Bank shall not be liable for any loss of items in transit or otherwise while in the process of collection, loss in transit or otherwise of cancelled vouchers and/or statements, or loss resulting from failure to present or by reason of late presentation of any item.

10. This corporation also agrees to be bound by all the rules, regulations, conditions, limitations and agreements contained in any signature card, deposit ticket, check book, pass book, statement of account, receipt, instrument or other agreement received by this corporation from the Bank or delivered to the Bank by this Corporation, with the same effect as if each and every term thereof were set forth in full herein and made a part hereof.

11. This corporation hereby waives protest of any negotiable instruments deposited with or held by the Bank to which this corporation is a party, and this corporation hereby consents to any and every renewal or extension of time or other modification which may be granted or made with respect to such negotiable instruments, and any such renewal or extension of time or other modification shall be deemed to have been granted or made with the full and express reservation by the Bank of all its rights or recourse against this corporation in respect of such negotiable instruments.

12. In the event of any litigation between the Bank and this corporation connected with the resolutions and agreements contained in this document or resulting from any transaction hereunder or in any other litigation between the Bank and this corporation, the right to a trial by jury is hereby waived by this corporation. The Bank shall not, by any act, delay, omission or otherwise, be deemed to have waived any of its rights or remedies hereunder unless such waiver be in writing, signed by the Bank, and then only to the extent therein set forth; failure of the Bank to insist on compliance with, or to exercise any right and/or remedy granted to it by, the resolutions and agreements set forth in this document or any of its rules, regulations, conditions, limitations and agreements contained in any signature card, deposit ticket, check book, pass book, statement of account, receipt, notice, instrument or other agreement shall not be deemed a waiver thereof or a bar thereto on any other occasion.

13. The signature of the president or secretary or a vice-president or an assistant secretary of this corporation at the foot hereof shall constitute this document not only a true copy of the resolutions referred to in this certificate but also an agreement by this corporation with the Bank with respect to all of the matters herein contained.

I FURTHER CERTIFY that the persons herein designated as officers of this corporation have been duly elected to and now hold the offices in this corporation set opposite their respective names, and that the following are the authentic, official signatures of the said respective officers and of the named signatories who are not corporate officers, to wit:

Name (Typewritten or printed)	Office	Signature
FRANK MAZZOCHI Jr.	President	
ARNOLD DUTCHER	Vice-President	
SOLOMON LEVINE	Secretary	
LAWRENCE ROTHBERG	Treasurer	
DAVID H. FASSBERG -	Authorized Signature	

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of this corporation by order of the Board of Directors hereof this day of , 19 , and I do further acknowledge, on behalf of said corporation, that the foregoing document is also an agreement by said corporation with said Bank with respect to the matters therein set forth.

Secretary

(Corporate Seal)

I, the undersigned, President of the corporation above named, do hereby certify that the foregoing certificate is in all respects true and contains a true copy of the resolutions regularly adopted by the Board of Directors of said corporation in the manner therein stated, and I do further acknowledge, on behalf of said corporation, that the foregoing document is also an agreement by said corporation with said Bank in respect to the matters therein set forth.

Dated: JANUARY 19, 1966

President

EXHIBIT B - AUTHORIZED LETTERS SIGNED BY FRANK MAZZOCHI, JR.

AUGUST 4, 1966

I HEREBY AUTHORIZED ROYAL NATIONAL BANK TO SELL FOR ME ONE (1) #10,000 U. S. TREASURY NOTE #11225'5-D.C. NOVEMBER 15, 1970. SAC 11/15/66.

Frank Mazzochi Jr.

early morning

CY 8-1861

PLAINTIFF'S Ex 51 9 60
DEFENDANT'S
RICHARD KAUFMAN

9900 —
11549
1 mf
10015-49

1/24/69
ff exhibit
CJC

USA 33s - 475
(ED. 4-22-71)
DEFENDANT'S
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.
B

FPI-NI—4-8-74-30M-2001

8/5/66

I HEREBY AUTHORIZED ROYAL NATIONAL BANK TO SELL FOR ME 7 (SEVEN) U.S. TREASURY NOTES, $60,000- DUE NOVEMBER 15, 1970 @ 5% - S.A.C. 11/15/66

FRANK MAZZOCHI JR.
247 SO. 3RD ST.
BROOKLYN, N.Y. 11211

$9400
692
6009293

PLAINTIFF'S EX. 51b
10/14/69

6/24/69
P.C. Ex 3, ind
RSB

831 8/9/66

I HEREBY AUTHORIZE ROYAL NATIONAL BANK TO SELL $70,000- WORTH OF U.S. TREASURY NOTES DUE 11/15/70 SCA 11/15/66

Frank J. Hogan Jr.

98.30
32

70
69256 25
Lt 827 41
70083 72

241 So 30th St

Ex 51c
10/14/69

6/24/69
Ex 5, il
d2k

X

9/12/66

I HEREBY AUTHORIZE ROYAL NATIONAL BANK TO SELL, FOR ME, #72,000 P.V. U.S. TREASURY NOTES. SCA 11/15/66

Frank [illegible]933 [illegible] Muzzicki

643-0416-5

247 So 3rd St

SAC, Ia. NY

#844

70,515
1183 75
71698 75

97.3052

Exhibit 10

6/24/69
Pgl EX 7 ptd
OK

CONFIRMATION

GOVERNMENT SECURITIES DIVISION
SEVENTY PINE STREET
NEW YORK, NEW YORK 10005
212 - HANOVER 2-2727

MERRILL LYNCH, PIERCE, FENNER & SMITH INC
UNITED STATES GOVERNMENT SECURITIES
STATE AND MUNICIPAL BONDS

FORM 3 MTC 6-66
PRINTED IN U.S.A.

AS PRINCIPAL WE CONFIRM **PURCHASE** FROM YOU TODAY
PLEASE DELIVER TO MANUFACTURERS HANOVER TRUST CO. NEW YORK FOR OUR ACCOUNT

TRADE DATE	SETTLEMENT DATE
08 05 66	08 08 66

PAR	SECURITY	RATE	MATURITY	PRICE	
10,000	U S TREAS NOTES	5	11 15 70	099	

OFF	ACCOUNT NO.	T.N.
01	031053	15

PRINCIPAL	9,900.00
INTEREST	115.49
FED. WIRE FEE	
TOTAL	10,015.49

INSTRUCTIONS

1212 AVE OF AMERICAS

ROYAL NAT BK OF NEW YORK
326 EAST 149TH STREET
BRONX, N Y
ATT. MR. T. LANDBERG, VP

PLAINTIFF'S Ex 52a 12/4/69
DEFENDANT'S
RICHARD KAUFMAN

6/27/72 Dpt ntc exhibit dtr

EXHIBIT C

EXHIBIT C - CONFIRMATION ORDERS FROM MERRILL LYNCH PIERCE FENNER & SMITH JA680

CONFIRMATION

GOVERNMENT SECURITIES DIVISION
SEVENTY PINE STREET
NEW YORK, NEW YORK 10005
212 - HANOVER 2-2727

MERRILL LYNCH, PIERCE, FENNER & SMITH INC
UNITED STATES GOVERNMENT SECURITIES
STATE AND MUNICIPAL BONDS

FORM 3 MTC 6-66
PRINTED IN U.S.A.

AS PRINCIPAL WE CONFIRM **PURCHASE** FROM YOU TODAY
PLEASE DELIVER TO MANUFACTUREPS HANOVER TRUST CO., NEW YORK FOR OUR ACCOUNT

TRADE DATE	SETTLEMENT DATE
08 05 66	08 08 66

PAR	SECURITY	RATE	MATURITY	PRICE
[illegible]000	U S TREAS NOTES	5	11 15 70	099

OFF	ACCOUNT NO.	T.N.
01	031053	334

PRINCIPAL	59,400.00
INTEREST	692.98
FED. WIRE FEE	
TOTAL	60,092.98

INSTRUCTIONS:

1212 AVE OF AMERICAS

ROYAL NAT BK OF NEW YORK
926 EAST 149TH STREET
BRONX, N Y
ATT. MR. T. LANDBERG, VP

PLAINTIFF'S EXHIBIT
Ex 526
RICHARD KAUFMAN

JA681

BEST COPY AVAILABLE

CONFIRMATION

GOVERNMENT SECURITIES DIVISION
SEVENTY PINE STREET
NEW YORK, NEW YORK 10005
212 - HANOVER 2-2727

MERRILL LYNCH, PIERCE, FENNER & SMITH INC
UNITED STATES GOVERNMENT SECURITIES
STATE AND MUNICIPAL BONDS

X

FORM 3 MTC 3-66
PRINTED IN U.S.A.

AS PRINCIPAL WE CONFIRM **PURCHASE** FROM YOU TODAY
PLEASE DELIVER TO MANUFACTURERS HANOVER TRUST CO., NEW YORK FOR OUR ACCOUNT

TRADE DATE	SETTLEMENT DATE
11 09 66	11 10 66

PAR	SECURITY	RATE	MATURITY	PRICE
70000	U S TREAS NOTES	5	11 15 70	099 30/32

OFF	ACCOUNT NO.	T.N.
01	031052	317

PRINCIPAL	69,256.25
INTEREST	827.45
FED. WIRE FEE	
TOTAL	70,083.70

INSTRUCTIONS:

1212 AVE OF AMERICAS

ROYAL NAT BK OF NEW YORK
326 EAST 149TH STREET
BRONX, N Y
ATT. MR. T. LANDBERG, VP

MANUFACTURERS HANOVER TRUST CO.
RICHARD KAUFMAN

Ex. 52 C

10/14/66

SA 682

1967

CONFIRMATION

GOVERNMENT SECURITIES DIVISION
SEVENTY PINE STREET
NEW YORK, NEW YORK 10005
212 - HANOVER 2-2727

FORM 3 MTC 6-66
PRINTED IN U.S.A.

MERRILL LYNCH, PIERCE, FENNER & SMITH INC
UNITED STATES GOVERNMENT SECURITIES
STATE AND MUNICIPAL BONDS

AS PRINCIPAL WE CONFIRM **PURCHASE** FROM YOU TODAY
PLEASE DELIVER TO MANUFACTURERS HANOVER TRUST CO., NEW YORK FOR OUR ACCOUNT

TRADE DATE	SETTLEMENT DATE
09 12 66	09 13 66

PAR	SECURITY	RATE	MATURITY	PRICE
72000	U S TREAS NOTES	5	11 15 70	097 30/32

OFF	ACCOUNT NO.	T.N.
01	031053	380

PRINCIPAL	70,515.00
INTEREST	1,183.70
FED. WIRE FEE	
TOTAL	71,698.70

INSTRUCTIONS:

WILL DELIVER

ROYAL NAT BK OF NEW YORK
326 EAST 149TH STREET
BRONX, N Y
ATT. MR. T. LANDBERG, VP

M 522 D
15/1/69

9/21/69
2 PM. EXD. A
SJC

JA 683

EXHIBIT D - BANK STATEMENT ON ACCOUNT OF F. MAZZOCHI, JR.

ROYAL NATIONAL BANK of NEW YORK

JA684

	1	2	12	AUG 31, 1986
.0000	150,192.12		138,000.00	2,192.12

FRANK MAZZOCHI, JR
247 SOUTH 3RD STREET
BROOKLYN, N Y

10

PAGE 0 1

643-0810-5

NOTIFY US OF ANY CHANGE OF ADDRESS

			DATE	BALANCE
10,000.00	25,000.00	70,108.42	AUG 9	35,108.42
13,000.00		70,083.70CM	AUG 10	92,192.12
10,000.00			AUG 12	82,192.12
10,000.00			AUG 15	72,192.12
10,000.00			AUG 16	62,192.12
10,000.00			AUG 17	52,192.12
10,000.00			AUG 18	42,192.12
10,000.00			AUG 19	32,192.12
10,000.00			AUG 22	22,192.12
10,000.00			AUG 23	12,192.12
10,000.00			AUG 29	2,192.12

PLAINTIFF'S EXHIBIT 11/21/69

[illegible] NATIONAL BANK of NEW YORK

AUG 31	3	SEP 30, 1968
1,692.12	71,698.70	12,187.00	61,703.82

FRANK MAZZICHI, JR
247 SOUTH 3RD STREET
BROOKLYN, N Y

PAGE 1

5

603-0816-9

NOTIFY US OF ANY CHANGE OF ADDRESS

CHECKS AND OTHER DEBITS	DEPOSITS & OTHER CREDITS	DATE	BALANCE
1,200.00		SEP 3	492.12
1,487.00		SEP 23	5.12
10,000.00	71,698.70CM	SEP 20	71,703.82
		SEP 30	61,703.82

BEST COPY AVAILABLE

PLAINTIFF'S Ex 2
DEFENDANT'S 9/17/69
RECEIVED KALFMAN

ROYAL NATIONAL BANK of NEW YORK

SEP 30		1	OCT 31, 1965
$1,703.62	.0	$1,000.25	703.57

FRANK MAZZUCHI, JR
287 SOUTH 3RD STREET
BROOKLYN, N Y

PAGE 1

603-0810-2

NOTIFY US OF ANY CHANGE OF ADDRESS

CHECKS OR OTHER DEBITS	DEPOSITS AND OTHER CREDITS	DATE	BALANCE
			703.32
$1,000.00		OCT 3	703.32
.25SC		OCT 31	703.57

Ex 3 Q
9/17/69

DEFENDANT'S EXHIBIT A - RECEIPT -
(In Evidence)

EXHIBIT F - RECEIPT DATED AUGUST 4, 1966 FROM FRANK MAZZOCHI, JR.

RECEIPT

Date AUG 4 1966 19

Received from Frank Mazzochi Jr

the following:

$10,000.00 U.S. of American Treasury

Note - 5¾ Series A-1970 Due 11/15/70.

Sold 11/15/66

and/or For Sale as WKT Dollars

ROYAL NATIONAL BANK OF NEW YORK

By

FORM 656

EXHIBIT J. - LETTER DATED AUGUST 10, 1967 TO F.B.I.

August 10, 1967

Inquiry 102,778

Your reference:
File No. 87-14767

Mr. Joseph D. Purvis, Special Agent in Charge
Washington Field Office
Federal Bureau of Investigation
United States Department of Justice
Old Post Office Building - Room 506
Washington, D. C. 20535

Dear Mr. Purvis:

This refers to your letter dated November 10, 1966, relating to the following 5% Treasury notes, Series A-1970, which have been involved in reuse.

Following is a report received from the Federal Reserve Bank of New York:

No. 31,606 for $5,000, was received by that bank on denominational exchange No. 435 on May 27, 1966, from W. E. Hutton & Co., 14 Wall Street, New York, New York, transaction totaling $5,000.

No. 112,255 for $10,000, was received by that bank on denominational exchange number 110 on August 11, 1966, from the Bank of New York, transaction totaling $40,000.

No. 117,185 for $10,000, was received by that bank on CPD No. 30 on September 21, 1966, from Manufacturers Hanover Trust Company, account of Merrill Lynch, Pierce, Fenner & Smith, transaction totaling $20,000.

Nos. 117,182, 117,186, 117,187, and 117,188 for $10,000 each, were received by that bank from Manufacturers Hanover Trust Company, account of Merrill Lynch, Pierce, Fenner & Smith, Inc., on CPD No. 44 transaction amounting to $220,000, and sent to Dallas.

Nos. 112,271 and 112,307 for $10,000 each, were received by that bank from Manufacturers Hanover Trust Company, account of Merrill Lynch, Pierce, Fenner & Smith, Inc., on CFD No. 48 transaction amounting to $30,000, and sent to Cincinnati.

These securities are no longer in the possession of the Federal Reserve Bank.

Very truly yours,

Settle Headley
Chief, Division of Retired Securities

RQGambrell:CEM 8/10/67

23

EXHIBIT S - LETTER TO MR. STOLZ FROM MR. McGRAW WITH ENCLOSURE

JA690

ROYAL NATIONAL BANK OF NEW YORK
326 EAST 149TH STREET
BRONX, N.Y. 10451

DEPTS PLFS DEF. ID 57 EVD R.C.
DATE: 10/27/69

Ca-7
1700
Leonard Yoswein
1 Park Pl
FP

September 21, 1966

Mr. Irving Stolz
Levy, Murphy & Stolz
99 Park Avenue
New York, New York 10019

Dear Mr. Stolz:

We are enclosing an Affidavit of Ownership of United States Government securities signed by Mr. Frank Mazzochi. This is in reference to our telephone conversation of Monday, September 19, 1966 regarding the sale of these securities and the withdrawal of the funds. Will you please advise the writer.

Very truly yours,

Edward I. McGraw

Edward I. McGraw
Assistant Vice President

EIMcG/np

Enc.

Memo by IHS: On receipt of the annexed affidavit, I communicated with Mr. Nathan, counsel to the Reginal Comptroller and Peter Walter communicated with the Secret Service and the FBI. We informed them "off the record" of the transactions of Frank Mazzochi, Jr., referred to in the annexed affidavit. After several days of checking I was told by Mr. Nathan that under the circumstances he didn't see what more I could do excepting to credit the customer"s account with the proceeds of the sale of the government notes. The FBI and the Secret Service both informed Peter Walter likewise and stated that they have checked the serial numbers and find no claims against the notes. I conferred with Leonard E. Yoswein attorney of 11 Park Place on the telephone on three different occasions about this matter. As a result of all of the foregoing I came to the conclusion that we had no choice excepting to credit the account of the customer with the proceeds of the notes.

IHS

JA691

~~DEFTS~~ EXH. ID 56
PLFS EXH. ~~EVD~~
R.C.
DATE: 10/27/69

STATE OF NEW YORK)
COUNTY OF BRONX) SS:

I Frank Mazzochi, Jr. of 247 South 3rd Street, Brooklyn, New York, due certify to the Royal National Bank of New York located at, 326 East 149th Street, Bronx, New York 10451, that I am the rightful owner of the U. S. Treasury Notes sold by the Royal National Bank of New York on the following dates:

8/5/66	$70,108.42
8/9/66	70,083.70
9/12/66	71,698.70
total	$211,890.82

bearing serial numbers as follows:

Quantity	Description	Number	In Name of or Coupons Attached	Securities Dated
$10,000PV	U S Treasury Note 5 % Treasury Note	112255	due 11/15/70	8/5/66
60,000PV	U S of America 5% Treasury note due 11/15/70	117851 112248 112243 111901 111900 3131 3024	due 11/15/70	8/5/66
70,000PV	U S of America 5% Treasury Notes due 11/15/70	117186/8 117182 112307 112271 112254	due 11/15/70 coupons 11/15/66 & SCA	8/10/66
72,000PV	U S of America Treasury Notes 5% due 11/15/70	91369 91368 2166 2114 2995 22827 35058 1925 109144 117183 117184 117185	due 11/15/70	9/12/66

STATE OF NEW YORK)
: SS:
COUNTY OF BRONX)

On this 20th day of September, 1966, before me personally appeared, Frank Mazzochi, Jr. , to me known and to me known to be the individual described in and who executed the foregoing instrument, and be duly acknowledged to me that he executed the same.

Herbert N. Fehling

HERBERT N. FEHLING
NOTARY PUBLIC, State of New York
No. 03-6252300
Qualified in Bronx County
Commission Expires March 30, 1968

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

EXHIBIT T - MEMORANDUM FROM MR. McGRAW TO PETER WALTER WITH NOTES

RETURN TO .....

MEMORANDUM

TO Mr. Peter Walter, Cashier

DATE September 15, 1966

FROM Mr. Edward I. McGraw, Assistant Vice President

RE Frank Mazzochi

The above sold through us the following U.S. Treas. securities and the proceeds were as follows:

8/5/66	$70,109.42
8/9/66	70,083.70
9/12/66	71,698.70
Total	211,890.82

PLAINTIFF'S Ex 47a id
DEFENDANT'S 9/19/69
RICHARD KAUFMAN

In a few days time the proceeds of the first two items totalling $140,192.12 was withdrawn by checks cashed with us. The proceeds of the third item of $71,698.70 is being held by us in suspense pending determination of the propriety of the transactions. Will you please advise us.

Edward I. McGraw

FORM NO. 854

From the desk of

HERBERT BACHER

Navy Bonds

Serial Numbers

Ed McGraw

Questionable

Officer I.H.S.

PLAINTIFF'S Ex 47 A ID
9/19/69

RICHARD KAUFMAN

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Ex 47 C.D
9/19/69

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EXHIBIT CC - STATEMENT OF QUALIFICATIONS AND OPINION OF VINCENT P. FAY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES FIDELITY & GUARANTY COMPANY,

Plaintiff,

-against-

THE ROYAL NATIONAL BANK OF NEW YORK, et al.,

Defendants.

Statement of Qualifications and Opinion of Vincent P. Fay

68 Civ. 2054 (HFW)

Qualifications

From May 1971 to present, Vice President in charge of National Credit and New Accounts departments for Hornblower & Weeks, Hemphill, Noyes Inc. Responsible for the handling and surveillance of all customer accounts.

1952 to 1971 - Goodbody & Co. Started as a margin clerk in 1952, became supervisor of margin in 1955, senior programmer and analyst for margin data processing in 1959, head of margin and new accounts departments in 1962, head of recovery department and Assistant Director of Operations in 1970. Became a special partner in 1967, a general partner in 1968.

1947 to 1952 - E.F. Hutton & Co. - Senior margin clerk.

1945 and 1946 - U.S. Army - honorable discharge.

1942 to 1945 - J. Arthur Warner & Co. - runner, mail clerk, stock record clerk, receive and deliver clerk, bookkeeper.

As a Vice-President at HWNH, I am an allied member of all American Stock Exchanges. I'm presently chairman of the rules and regulations committee of the Credit Division, Securities Industry Association and a member of its executive committee.

Opinion

I have been advised that MLPFS accepted an order to sell Treasury notes for their customer, The Royal National Bank of New York which in the normal course of business was executed. The Royal had been a customer of MLPFS and had entered orders of this type before. When delivery was made, the ticket indicated "for the account of Frank Mazzochi, Jr." This was obviously for the bank's records only since MLPFS had no knowledge of Mr. Mazzochi at the time the order was executed or when delivery was made, having never done business with him.

MLPFS accepted the order to sell and the delivery of the notes, relying on the proven reputation and integrity of the bank which is standard practice within the brokerage industry. Many trades of this type are executed daily and in most cases the broker has no indication whether the trades is for the bank itself or one of it's customers.

In my opinion, MLPFS acted correctly in every respect and was not in violation of any rules set by governing bodies nor did they deviate from standard brokerage procedure.

Lawrence P. Fay

ATTORNEY'S AFFIRMATION

JA699

STATE OF NEW YORK
COUNTY OF ss.:

The undersigned, an attorney admitted to practice in the courts of New York State, hereby affirms as true under all the penalties of perjury that affiant is

the attorney(s) of record for
in the within action; that affiant has read the foregoing
and knows the contents thereof; that the same is true to affiant's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that those matters affiant believes to be true. Affiant further says that the reason this verification is made by deponent and not by

The grounds of affiant's belief as to all matters not stated upon affiant's knowledge are as follows:

Dated 19

_____

NOTICE OF ENTRY

Sir:- Please take notice that the within is a
(certified) true copy of a
duly entered in the office of the clerk of the within named court on 19

Dated,

Yours, etc.

KONHEIM, HALPERN & BLEIWAS

Attorneys for

Office and Post Office Address

11 PARK PLACE
NEW YORK, N. Y. 10007

To

Attorney(s) for

NOTICE OF SETTLEMENT

Sir:- Please take notice that an order

of which the within is a
true copy will be presented for settlement to the
Hon.
one of the Judges of the within named Court, at

on the day of 19
at M.

Dated,

Yours, etc.

KONHEIM, HALPERN & BLEIWAS

Attorneys for

Office and Post Office Address

11 PARK PLACE
NEW YORK, N. Y. 10007

To

Attorneys for

---

96 Civ. 2054 (RE)

Index No. Year 19

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED CAPITAL PROPERTY & CASUALTY COMPANY,

Plaintiff

-against-

[illegible] UNITED NATIONAL BANK OF NEW YORK, et al.,

Defendants

[illegible] CERTIFICATE OF SERVICE

KONHEIM, HALPERN & BLEIWAS

Attorneys for

Office and Post Office Address

11 PARK PLACE
NEW YORK, N. Y. 10007
CORTLANDT 7-5033

To

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated, 19

Attorney(s) for

CERTIFICATION BY ATTORNEY

STATE OF NEW YORK
COUNTY OF ss.:

The undersigned, an attorney admitted to practice in the courts of New York State, certifies that the within has been compared by the undersigned with the original and found to be a true and complete copy.

Dated:

VERIFICATION, CORPORATE OR INDIVIDUAL

STATE OF NEW YORK
COUNTY OF ss.:

, being duly sworn, deposes:

Deponent is the of , a corporation, in the within action;

Deponent has read the foregoing and knows the contents thereof; the same is true to deponent's own knowledge, except as to the matters therein alleged upon information and belief, and those matters deponent believes to be true.

The grounds of deponent's belief as to all matters not stated upon deponent's own knowledge are as follows:

Sworn to before me,
this day of , 19 .

AFFIDAVIT OF PERSONAL SERVICE

STATE OF NEW YORK
COUNTY OF } SS.:

being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides at
That on the day of 19
at No.
deponent served the within
upon
the herein,
by delivering a true copy thereof to h personally.
Deponent knew the person so served to be the person mentioned and described in said papers as the therein.

Sworn to before me,
this day of 19

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK
COUNTY OF } SS.:

being duly sworn, deposes and says; that deponent is not a party to the action, is over 18 years of age and resides at
That on the day of 19
deponent served the within
upon
attorney(s) for
in this action, at
the address designated by said attorney(s) for that purpose by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in -- a post office - official depository under the exclusive care and custody of the United States post office department within New York State.

Sworn to before me,
this day of 19

whom said deposition is taken.

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to form, are reserved to the time of trial.

IT IS FURTHER STIPULATED AND AGREED that counsel for plaintiff shall furnish a copy of the within deposition to counsels for defendants without cost.

oOo

W A L L A C E S. N A T H A N, called as a witness by plaintiff, being first duly sworn by the Notary Public (Richard Kaufman) and stating his residence as 542 East 81st Street, Brooklyn, N. Y., testified as follows:

EXAMINATION BY MR. KOMOROFF:

Q Mr. Nathan, are you employed by the United States government or by any agency of the United States government?

A Yes, I am.

Q By whom, please?

A By the Controller of the Currency.

Q Located where?

A In the office of the regional administrator of national banks, 33 Liberty Street, New York City.

Q How many years have you been stationed there?

A Six years.

Q What are your functions and duties there?

A My title is regional counsel, generally to handle any legal problems that arise in connection with our supervision of national banks in the Second National Bank region.

Q You mean the regulations of the banks?

A Regulations and supervision.

Q Have you in the last eight years ever been in the employ of the Federal Reserve Banks of the United States?

A No, sir.

Q Do you know a man named Irving Stolz?

A Yes, I do.

Q Do you know him as counsel to the Royal National Bank of New York?

A Yes.

Q Have you from time to time advised him about bank regulations as they might pertain to the operations of the Royal National Bank of New York?

A Yes, I have.

Q Did you do that in 1965?

A I don't recall any specific instances, but I am sure I was in contact with Mr. Stolz from the time I

came to New York until the present time.

Q How long do you know Irving Stolz as the counsel for the Royal National Bank?

A I would have to say approximately since early 1965.

Q And your knowing him, is that strictly within the confines of the formalities wherein you represent the Controller of the Currencies office and he represents the bank?

A Yes.

Q I mean you are not friendly on the outside?

A Strictly a business relationship.

Q Do you recall any conversations with Mr. Stolz in 1966 where he called you on behalf of the Royal National Bank of New York and inquired concerning listings involving twenty-six United States treasury five percent bonds of the November 15, 1970 class?

A I don't recall any conversations specifically referring to that.

Q Do you recall any conversations with him concerning these twenty-six treasury notes or any portion thereof with respect to the regulations and conduct of the Royal National Bank?

A I don't recall any specific conversations.

Q I am referring to the year 1966, specifically the month of September, 1966.

A I don't recall any.

Q Does the office of the Controller of the Currency at 33 Liberty Street, New York City, contain listings of stolen or missing United States treasury notes?

A No, we don't.

Q Did they contain such listings in the year 1966?

A No, we did not.

Q If such an inquiry is made from you, Mr. Nathan, what is your response?

A Well, I would normally refer the inquiry either to the Federal Reserve Bank of New York or to the Bureau of the Public Debt in Washington.

Q But it's not your function or duty where an inquiry is made as to missing federal bearer paper to make a search for the inquirer?

A That is correct.

Q And you did not do that in this particular instance?

A I don't recall having done that.

Q I will show you a paper which contains the listing of each of the twenty-six treasury notes, series A, 1970 involved in this law suit and ask you if looking at this

you to ask for regulatory advice with respect to the functioning of the bank that he represents?

A Yes.

Q Would it only be within the confines of that area that Mr. Stolz would be in the habit of communicating with you?

A He would normally call with a question concerning the affairs of Royal National Bank.

Q Do you recall any conversation with him where he asked you for the release of monies that were tied up by the Royal National Bank in connection with stolen United States treasury notes?

A I don't recall any such conversation.

Q Are you saying now that you were not contacted by Mr. Stolz about any one or all of the treasury notes listed on Exhibit 1?

A No. I am saying that I don't recall being contacted. He may have called me but I just don't have any recollection of the phone call.

Q If he may have called you, would you have conducted a search with respect to any one of the twenty-six treasury notes to find out if they were listed as missing or stolen?

MR. HART: I have to object to the form of

counsel to make memoranda of all inquiries that are made of you in your official capacity?

A Telephone inquiries?

Q Any kind of inquiries.

A To make memoranda, no.

Q You don't have to do it?

A No.

Q Do you remember if anyone acting for Royal National Bank in September of 1966 made the type of inquiry that I have been questioning you about?

A No, I don't know of any such.

Q Would your dealings be only with counsel for the Royal Bank?

A No. There would be people in the bank who would call occasionally, too.

Q Do you remember any talks with any other bank personnel or counsel concerning any or all of the twenty-six treasury notes listed?

A No, I don't.

Q Did the controller of the currency have access to the listing of stolen or mysteriously missing treasury notes in September of 1966?

A I don't know what you mean by access.

Q Could you get that information if you wished?

A Well, I have never tried to. I suppose we could get that information.

Q But you have never tried to?

A Not that I recall, no.

Q If twenty-six separate treasury notes were read over the phone to you and you had to make a record of each specific note, would that enable you to remember the occasion?

A If I made a record of it, it certainly would.

Q How long do you estimate it takes you to write up a memorandum listing each of these twenty-six notes if the information was given to you on the telephone?

MR. HART: I object to the form of that question.

MR. KOMOROFF: Let him answer. You have the opportunity at the trial.

A To take time to dictate them and transcribe them. About twenty minutes or so.

Q If you delegated the duty of checking on each of these notes, you would have to give the same information to somebody else who could make the search at the Office of the Public Debtor, is that correct?

A Yes.

Q In 1966, the listings of stolen or missing

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treasury notes were maintained by the Bureau of the Public Debt in Washington?

A As far as I know, yes.

Q Do you know of any federal agency in New York City that contained listings of mysteriously missing or stolen United States treasury notes in 1966?

A No. I thought that the Federal Reserve Bank of New York might, but I am not sure of that.

Q What is the basis for your thinking that the Federal Reserve Bank in 1966 might have carried listings of mysteriously missing or stolen notes?

A The Federal Reserve Bank is the physical agent of the United States and they sell treasury bills and treasury notes.

Q That is correct, but we are speaking now of the listing of stolen or mysteriously missing bearer paper.

Do you know it to be a fact that the Federal Reserve Bank at 33 Liberty Street, New York City, did maintain such listings in 1966?

A No. I did not know who really maintained them besides the Bureau of the Public Debt and if anybody asked I might guess that it would be the Federal Reserve Bank.

Q Did you tell Mr. Stolz in 1966 that the Federal Reserve Bank might carry such listings?

A I don't recall, but if anybody asked me, I would tell them to check with the Federal Reserve Bank and the Bureau of Public Debt.

Q The Bureau of Public Debt where, in New York City or in Washington?

A In Washington.

Q Do you remember any such specific conversation the latter part of 1966 with anyone acting on behalf of the Royal National Bank of New York?

A No, sir, I don't.

Q Did your office, the Controller of the Currency in 1966 carry any information concerning stolen or missing treasury notes?

A Not to my knowledge.

Q Do you remember any talk with Mr. Stolz in or about September of 1966 where you told him there was no reason to withhold the monies carried in the Mazzochi account at their East 149th Street branch?

A I don't recall the conversation.

Q Do you remember any conversation with Mr. Stolz where you told him in September of 1966 that you would check the matter out and that there was no record of any of these twenty-six bonds on the special listing of stolen or missing treasury notes?

A I don't recall any such conversation.

Q Do you recall doing any checking yourself or engaging somebody to do the checking for you in September 1966 with respect to any one or all of the twenty-six treasury notes listed on Exhibit 1?

A No, I don't.

Q Do you remember any talk with Mr. Stolz in September 1966 where you asked him to check at the Federal Reserve Bank or at some other agency of the Treasury Department with respect to the listing of stolen and missing treasury notes?

A No, I don't.

Q You didn't check at any of the other federal agencies about this, did you?

A No, not that I recall.

Q You don't remember receiving any papers in September 1966 that were transmitted to you by Mr. Stolz or anyone acting for the bank with respect to any one of these twenty-six treasury notes?

A No, I don't remember that.

Q Mr. Stolz stated he relied on what you told him in September 1966 and advised the bank to release seventy-two thousand dollars to Mazzochi in late September 1966.

Do you remember any such talk?

to them.

Q When we conclude here today, Mr. Nathan, will you be good enough to check your files for 1966 and tell us if you have any record with respect to an inquiry by Mr. Stolz or anybody else acting for the Royal National Bank with respect to any one or any part or all of the twenty-six treasury notes that are listed on Exhibit 1?

A Yes, I will.

Q In such event, will you be good enough to notify us?

A Certainly.

Q Will you be good enough to notify us in writing so we can make your response a part of this record?

A I will be happy to do that.

Q Thank you very much, sir.

I think you said earlier it would be normal for you to tell an inquirer, concerning the subject matter that we have discussed here, that the information could be obtained at the Bureau of the Public Debt of the United States Treasury Department in Washington D.C.

A That would be my normal answer.

Q The subject matter that we are discussing here is within the jurisdiction of the Bureau of the Public Debt in Washington?

A That is correct.

Q And it is not within the jurisdiction of the office of the Controller of the Currency?

A That is correct.

Q Do you recall contacting the Bureau of the Public Debt in Washington in September of 1966 or asking someone in your department to make such an inquiry at the Bureau of the Public Debt in Washington concerning any one of the twenty-six treasury notes that we have been discussing?

A No.I don't.

Q Do you remember any talks with Mr. Stolz concerning the Federal Bureau of Investigation or the United States Secret Service as the place he could get the information that he asked you to obtain?

A I don't remember any specific conversations four years ago.

Q Should it turn up after you make your search that you do have a file for 1966 with respect to any inquiries by the Royal National Bank concerning any one, a portion or all of the twenty-six treasury notes listed in Exhibit 1, that you will be agreeable to produce those records in this Courthouse?

A Yes.

Q For further examination?

the letter you sent me is in response to the message that I sent to the office of the Controller of the Currency on January 10, 1968?

A Yes, it is.

MR. KOMOROFF: May we have it marked.

(Photoprint of a letter sent to the office of the Controller of the Currency by Mr. Komoroff dated January 10, 1968 marked Plaintiff's Exhibit 3 for identification as of this date.)

BY MR. KOMOROFF:

Q Do you have any recollection at all, Mr. Nathan, that in September of 1966, Mr. Stolz read off to you on the telephone the description of each of the twenty-six treasury notes listed in Exhibit 1?

A I don't remember that.

Q You have no recollection then that in 1966, you discussed the checking of each of these twenty-six notes for Mr. Stolz?

A No, I don't recall that.

Q Or that you directed Mr. Stolz to the Federal Bureau of Investigation or the Secret Service of the United States with respect to listings of stolen or missing treasury bearer paper?

A I don't remember that either.

Q Tell me, does your office have a direct phone line with the Bureau of the Public debt in Washington?

A No, we don't.

Q Is the office of the Controller of the Currency an agency, a federal agency that is separate and apart from the Federal Reserve Bank System?

A That is correct.

Q Autonomous, too?

A The Controller of the Currency is a bureau of the Treasury Department.

Q In other words, the Treasury Department has various bureaus and you were one of them?

A That is correct.

Q Just like the Bureau of the Public Debt is another such branch?

A That is correct.

Q Are there any regulations of the office of the Controller of the Currency that require that a record should be made of an inquiry of the type that we had been discussing?

A No.

Q Mr. Nathan, is it agreeable to you that if after you have made your search of 1966 transactions between your office and the Royal National Bank, that if writings appear

DIRECT EXAMINATION BY MR. ROTKER:

Q Mr. Kayner, what is your business or occupation?

A I'm an officer with the Royal National Bank.

Q How long have you been with the Royal National Bank? A Since May of 1962.

Q Mr. Kayner, did you ever work at the Bronx branch at 326 East 149th Street? A Yes, I was an officer there for several years.

Q Specifically, were you employed at the Royal National Bank on August 5, 1966, in personal accounts at the bank? A Not at -- well, he opened up a personal account shortly after August 5th but he had several accounts with the bank.

Q And did you know him to be associated or affiliated with any group, organization, corporation? A Yes, he was the president of the Mutual Credit Union.

Q And is that a Bronx institution? A Yes, it is.

Q And were you acquainted with the balances kept on account by the Mutual Credit Union? A Yes, I was.

Q And how long had you been acquainted with the balances kept on account by the Mutual Credit Union?

A Well, I would say since shortly after getting to the branch.

Q That would be from '62 on? A No, that would

be from late 63 on.

Q I see. And can you tell us what type of balances were maintained, average monthly balances?

A Well --

MR. BRAUNSTEIN: Objected to as incompetent, irrelevant, immaterial what the Credit Union --

THE COURT: Overruled.

MR. BRAUNSTEIN: I respectfully except.

Q Can you tell us, sir? A I would say that they averaged in low four figures. It would be a thousand, two thousand dollars, in that area.

Q Did you know Mr. Mazzochi having any other accounts as for any other corporations or other accounts at the branch? A Yes.

MR. BRAUNSTEIN: That's objected to as incompetent, irrelevant, immaterial.

THE COURT: Overruled.

MR. BRAUNSTEIN: I respectfully except.

Q Do you know the name of the accounts that he had? A He had two accounts with us. He had Unis Home Repairs.

Q Yes. A And he had Finog, Inc.

Q F-i-n-o-g? A Yes.

Q And can you tell us how long these accounts were at your Royal National Bank?

MR. BRAUNSTEIN: This is objected to, if Your Honor pleases. It's incompetent, irrelevant --

THE COURT: Yes, sustained. It's not material.

MR. ROTKER: Well, subject to connection, your Honor.

THE COURT: Well step up and tell me what the connection is.

(Mr. Rotker and Mr. Braunstein confer with the Court at the bench.)

Q I call your attention to August 5, 1966. Do you remember having conversation with Mr. Mazzochi on the day in question? A Yes.

Q And do you recall what the circumstances were -- I mean what was the conversation about? A He came into the bank and requested that we sell some treasury bonds for him.

Q And do you recall what time of the day he came in, in the morning, the afternoon? A As I recall, it would be in the morning or the very early -- noontime or thereabouts.

MR. BRAUNSTEIN: If Your Honor pleases, may we be specific? The morning or around noontime. I mean it's--

Q Whatever your best recollection is. A I would

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guess in the morning. That would be my best recollection.

MR. BRAUNSTEIN: Thank you.

Q Do you recall approximately how much treasury bonds, as you characterize, he brought in? A Well, he brought in $10,000 at first.

Q And when he brought this $10,000 worth of treasury bonds in did you speak with him about it? A Yes.

Q What did you say to him and what did he say to you? A Well, I questioned him as to -- since the bonds are bearer bonds I questioned him whether they were his bonds, and so on.

Q What did he say? A He stated that they were his family's bonds and he wanted to sell them for his family.

Q And what did you do? A Well, I accepted the bonds and we subsequently sold them for him.

Q And did you see Mazzochi on the same day? A He brought in more bonds later that day.

Q And how much more bonds did he bring in?

A Sixty-thousand dollars worth.

Q So, in other words, he brought in $70,000 worth of bonds on August 5, 1966; is that correct? A That's correct.

Q And what's the bank's procedure with regard to a

and leading.

THE COURT: Sustained.

Q Now, I believe your testimony was that at this time -- up until this time Mazzochi had no personal account at your bank. A That's correct.

Q Did there come a time that he did have a personal account at your bank? A Yes, shortly thereafter.

Q Well, you say "shortly thereafter." Can you be as explicit as you can in point of time, if you know? A Well, I would say within two weeks.

Q Within a two-week period of time. A Yes.

Q And was there any conversation between you and Mazzochi as to what was to happen to the proceeds of the sale of these $70,000 worth of U. S. Treasury Bonds? A Well, I can't recall whether I spoke to him directly, but the purpose of opening the account was to credit the proceeds to his personal account since you can't credit it very well to the corporate accounts.

Q Now, those records that are kept by the bank with regard to the certificates or U. S. Treasury bonds, I should say, received by the bank, where or how are they kept by the bank? A Well, they're kept in the loan department, which is the department that handles all security transactions.

LD D1

BY MR. ROTKER: I show you these documents. Do you recall having any conversation with Mr. Mazzachi prior to August 5th, 1966 with regard to the sale of these bonds?

A No. Well I only spoke to Mr. Mazzachi one day about these bonds. Now I assumed it was August 5th when everything took place but ---

MR. BRAUNSTEIN: I ask that assumed be stricken out, if Your Honor please.

THE COURT: All right, strike it out.

Was it August 4th or August the 5th, is that what you are saying now? A Well, I see there is another order selling bonds on August the 4th. Now off-hand I don't know. It's possible that this is dated incorrectly too.

MR. BRAUNSTEIN: I am going to object to that if Your Honor pleases.

Do you have any recollection as to whether or not the particular items marked People's Exhibit number for identification was dated on August the 5th or written or dated in your presence? A No, they were. They weren't? A They weren't dated in my presence.

Q I see.

MR. ROTKER: At this time I would offer these documents in evidence as People's Exhibit 2 and 3.

states no objection.

MR. BRAUNSTEIN: No objection.

COURT OFFICER: People's 2 and 3 now marked in evidence.

MR. ROTKER: May I read for the jury, Your Honor?

THE COURT: Yes.

MR. ROTKER: "August 4th, 1966." I am referring to People's Exhibit Number 2. "I hereby authorize Royal National Bank to sell for me, one, ten-thousand dollars U. S. Treasury Note Number 112255 due November 15, 1970." It says "SAC 11/15/66." There is a form of a 'Z' mark and then it is signed Frank Mazzachi, Jr. in script and beneath it is printed Frank Mazzachi, Jr. In addition thereto there is some other writing or notations including a telephone number and some figures on this document. This is a photostatic copy.

MR. BRAUNSTEIN: May I just look at that a minute?

MR. ROTKER: Now there is another People's Exhibit Number 3. It is dated August 5th, '66. "I hereby authorized Royal National bank" - it's authorized, 'ed.' Royal National Bank to sell for me seven - with the number seven in parenthesis, seven U. S. Treasury Notes ~~a~~ty-thousand dollars due November 15, 1970 with the ~~it~~ sign five percent, hyphen SAC 11/15/66. It is signed

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Frank Mazzachi, Jr. in script. Underneath is printed Frank Mazzachi, Jr. 247 So. Third Street, Brooklyn, New York 11211. In addition thereto there is another telephone number and some additional figures on that. MR. EXHIBIT

BY MR. BOTKLR:

Q Are these the documents received by Mr. Mazzachi when authorizing you to sell certain treasury notes or bonds for him? Are these the documents that you received from Mr. Mazzachi when he authorized you to sell these notes and bonds? A It would be accepted as a sell order.

Q Now, when the bonds were received by you on the day in question, whenever they were received, what did you do with the bonds? A Well, I wouldn't ---

MR. BRAUNSTEIN: I will object to the form of the question. There is no proof here that he received the bonds actually.

MR. BOTKLR: He said so.

MR. BRAUNSTEIN: There may have been some other man or officer in the corporation, in the bank.

Q Did you receive the bonds? A Personally, no.

Q When you say personally, did you receive, did you get any of the bonds? A Never.

Q Well, you had conversation with Mr. Mazzachi, is that right relative to bonds? A Right.

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BY MR. ROTHER:

Q What happened then? A I informed our Loan Department that he would be giving them seventy, well ten-thousand dollars worth of bonds and that they should sell it for him and subsequently another sixty-thousand dollars and they should sell it for him. They received the bonds. They received the sell order. Thesecare sell orders. And that was in effect my last contact.

Q In other words you say the Loan Department handles this aspect of the transaction, is that correct? A Right.

Q Sir I show you two photostatic copies and ask you whether or not these are photostatic copies of records kept by the Royal National Bank in the ordinary course of its business? A That is correct.

MR. ROTHER: May we show them to counsel, please?

MR. BRAUNSTEIN: No objection.

MR. ROTHER: I would ask that it be marked for identification.

MR. BRAUNSTEIN: I said I had no objection to it into evidence.

MR. ROTHER: Into evidence. I will put them in evidence, all right, fine. In evidence, photostatic --

MR. BRAUNSTEIN: Again I ask Your Honor's indulgence. I thought I would save time that way.

THE COURT: Yes, of course.

MR. ROTHER: Let the one with one. They are both dated August 5, 1966. Let one with one transaction be People's ---

MR. ERLBAUM: Mr. Rother, can I, just a minute, so we can have it clear. They are not the same. This one is the Royal National [illegible] for sixty-thousand and one is for ten-thousand.

MR. ROTHER: That's right. I was going to say with one transaction and more than one transaction. People's 4 and 5.

COURT OFFICER: People's Exhibit 4 and 5 marked in evidence.

MR. ROTHER: May I read them to the jury, your Honor?

THE COURT: (Indicating in the affirmative.)

MR. ROTHER: People's exhibit Number [illegible], [illegible] Memorandum. It says Royal National of New York, 926 East 149th Street; date August 5th, 1966. [illegible] delivered to Merrill, Lynch, Pierce, Fenner and 70 Pine Street New York City, for the account of [illegible] Azzachi, Jr. and it says quantity typed in ten-[illegible] dollars PV. Description, U. S. Treasury Note [illegible] 75 in name of or coupons attached 11/15/70. [illegible] at the bottom again payment of ten-thousand [illegible] dollars and forty-[illegible].

due 11/15/70 and 'against payment' sixty-thousand ninety-two dollars and ninety-three cents. Then there is some printing in here. There is a signature and some printing. It says 'hold check till he comes in.'

Q Is that your handwriting at the bottom of People's five?

A No.

Q Do you recognize the signature? A I would only guess.

Q Don't guess.

MR. BRAUNSTEIN: May I ask one question, if Your Honor please.

MR. ROTKER: I object.

THE COURT: At this time the objection is sustained.

Q And 'against payment' again in the sum sixty-thousand ninety-two dollars and ninety-three cents is to be credited to the account of Frank Hannaschk, is that correct? A That's right.

Q Now, sir, I show you the following and ask you whether or not these two documents are records kept by you in the ordinary course of its business. I show it to counsel.

MR. BRAUNSTEIN: No objection.

MR. ROTKER: I would ask at this time that I be allowed to look to see if these are records kept by the National Bank in the ordinary course of its business.

or copies of records.

MR. BRAUNSTEIN: I have conceded that.

A They are.

MR. ROTKER: I thought. All right. I would ask that they be marked People's Exhibit six and seven; six being a purported handwriting document dated August 9, 1966; seven being a memorandum of Royal National Bank dated August 10, 1966.

COURT OFFICER: People's Exhibit 6 and 7.

MR. ROTKER: May I read it for the jury, if Your Honor please?

THE COURT: Yes.

MR. ROTKER: People's six is as follows. It is dated August 9 - 8/9/66. I hereby authorize Royal National Bank to sell seventy-thousand dollars worth of U. S. Treasury Notes due 11/15/70, CAC 11/15/66. There is a signature Frank Mazzacchi, Jr. and there are certain numerical figures that are written below that.

MR. BRAUNSTEIN: May I please request Mr. Archer to read those figures?

MR. ROTKER: The figures?

MR. BRAUNSTEIN: Yes, sure.

MR. ROTKER: They are on there. It is a part of the exhibit.

ROTKIN:

MR. [illegible] There is a figure seventy and underneath that it's 0925625. Then it says Int 82745, and then it says 7000370. And it says 247 So. Third Street, Brooklyn. There is also a figure of ninety-eight point thirty with a line and it says thirty-two underneath it.

[illegible] People's Exhibit Number 7. It says Royal National Bank with the address, [illegible] 6/10/66. It says delivered to Merrill, Lynch, Pierce, Fenner and Smith 70 Pine Street, New York City for the account of Frank Mazzachi, Jr. 643C416 hyphen 5. It says quantity seventy-thousand dollars PV, MX U. S. of America [illegible] per cent Treasury Notes due 11/15/70. Then it says number. Under the number it is listed MXX 117186 with a slash, slash mark 3, 117182, 112307, 112271, 112254. It says in name of or coupons attached due 11/15/70 coupons 11/15/66 and SOA. Then it says 'against payment' 70083 point 70.

Q Do you know what PV stands for after quantity?

A Par value.

Q Pardon me. A Par value.

Q And do you know what SOA stands for? A I think it refers to coupons attached but I am not sure.

Q I see.

MR. BRAUNSTEIN: Do you want to offer these in

MR. BRAUNSTEIN: May I proceed?

MR. ROTHKER: May I approach the Bench with counsel?

THE COURT: Yes.

(Off the record discussion at the Bench)

MR. BRAUNSTEIN: May I proceed, your Honor?

THE COURT: Yes.

R O B E R T I. K A Y N E R, resumed the stand and testified further as follows:

CROSS EXAMINATION (continued)

BY MR. BRAUNSTEIN:

Q Mr. Kayner, Merrill, Lynch, Pierce, Fenner and Smith are brokers dealing in securities; right? A That is correct.

And what connection did they have with the Royal Bank in connection with these transactions?

MR. ROTHKER: Objection. That presupposes they have a connection with the Bank.

THE COURT: Overruled. It is in evidence. Go ahead.

THE WITNESS: They sold the bonds in question for the bank.

Q Right. And the bank, the Royal National Bank, received confirmation of those bonds from Merrill, Lynch, Pierce, Fenner and Smith; is that correct? A That is correct.

Q And the Royal National Bank, in connection with

these securities, anid in delivering the securities to this broker Merrill, Lynch, etcetera, did it for the account of Frank Mzanochi; is that correct? A /That is correct.

Q As a matter of fact, throughout all these transactions, the name Frank Mazzochi was there, was it not?

A That is correct.

Q He didnAt give you any transactions that he wanted in any other name, did he? A No, he did not.

Q I show you PeopleAs Exhibit 5, and I direct your attention to some pencil notations. Do you recognize whose handwriting that is, if you do? A I couldnAt be sure whose it is.

Q All right. You wouldn t say it was Mr. Santoro, would you?

MR. ROTHKER: Objection. The witness has answered thequestion.

THE COURT:: Yes, sustained.

Q Do you know, Mr. Kayner whether Mr. Mazzochi opened an account in the Royal National Bank No. 634165 around August 5, 1966?

MR. ROTHKER: Judge, I object to the question. The question has been asked and answer by this witness.

THE COURT: Overruled.

circumstance who indicate the course of conduct of this defendant and his dealings that he had with the particular bank in question. I believe it is a proper question that should be asked and answered, could be asked and should be answered.

THE COURT: You made your offer of proof. I ruled on the question.

(The following occurred in the presence of the jury:

Q Does the Royal Bank of New York sell bonds, Treasury bonds, as an accommodation for its customers?

A Yes, it does.

MR. BRAUNSTEIN: If your Honor please, that is objected to. It is incompetent, irrelevant and immaterial.

THE COURT: Overruled.

Q Now, is this a large part of the business of Royal National Bank, selling bonds and securities for its customers?

MR. BRAUNSTEIN: That is objected to, if your Honor pleases.

THE COURT: Overruled.

THE WITNESS: No, it is not.

Q Insofar as the policies of the bank are concerned, if a stranger walked in off the street with a substantial amount of bonds, would the bank sell the bonds for

A Yes.

Q3 If so, what is your husband's full name?

A Frank Mazzochi.

Q4 Has he also received a subpoena as a witness?

A Yes.

Q5 How many children do you have?

A Three.

Q6 Of those who may be living, please state their names, ages and present addresses, and where they were born?

A Frank Mazzochi, Jr., age 34, born New York City. Present address, Greenhaven Prison, Stormville, New York. Richard Mazzochi, age 30, born in Brooklyn, New York, address- 2153 Cable Street, San Diego, California. Robert, age 24, born in Brooklyn. Present address-206 Avenue B, Ronkonkoma, New York.

Q7 Did your son by name of Frank Mazzochi, Junior (hereinafter referred to through out as "JUNIOR") go to high school?

A Yes.

Q8 In what city and state did he attend high school?

A New York City.

Q9 If you know or remember, what was the name

of the high school?

A Brooklyn High School of Automotive Trade.

Q10 Was it a high school for learning trades?

A Yes.

Q11 Was it a school of Automotive Trades?

A Yes.

Q12 Did Junior graduate?

A No.

Q13 What year did he leave the automotive trades school?

A 1954.

Q14 What kind of work did Junior do to earn a living from 1954 until the summer of 1966?

A He was a salesman and he was in the home improvement, real estate.

Q15 What kind of work was Junior in, during the spring and summer months of 1966?

A He was in real estate, credit union business.

Q16 We direct your attention to August and September, 1966. In what city, and at what street address, were you living then?

A In Brooklyn, 247 So. 3rd Street.

Q17 Did your husband also live there then?

A Yes.

Q18 Did any of your sons also live there?

A No.

Q19 If so, which ones? (Please give names).

A No answer needed.

Q20 Of these sons that were living with you in August and September, 1966, how was each employed then?

A Frank Mazzochi, Jr. see question 15.

Q21 Where was each son then working or employed?

A Frank, Jr. see answer to question 15. Richard worked at Day Top Village, Staten Island, New York. Robert was in the United States Air Force stationed in Vietnam.

Q22 Is 247 So. 3rd Street in the Williamsburg section of Brooklyn?

A Yes.

Q23 Is 247 So. 3rd Street an apartment house?

A Yes.

Q24 Is it 5 floors, walk-up?

A Yes.

Q25 Was it tenanted, in 1966,by persons of high or low income?

MR. BAJO: In accordance with Exhibit No. 1, Defendant Royal objects to question 25 on the ground it is ambiguous.

A Low.

Q40 Did you have a telephone at your residence in 1966?

A Yes.

Q41 Was the number STagg 2-3835?

A Yes.

Q42 Do you know the meaning of the term "securities"?

A Yes.

Q43 If lawyers, or bankers, or brokers, or investors, talk about "securities," do you understand what they are talking about?

MR. BAJO: In accordance with Exhibit No. 1, Defendant Royal objects to question No. 43 on the ground it is ambiguous and calls for speculation of the witness.

MR. MARKOWITZ: You may answer.

A Yes.

Q44 Do you know what a "security" is?

A Yes.

Q45 From May, 1966 to January, 1967, did Frank, Jr. give or transfer to you any securities?

A No.

Q46 Do you know what a United States Treasury Note looks like?

A No.

Q47 Did you ever see such a Treasury Note?

A No.

Q48 Did you ever hold one in your hand?

A No.

Q49 If so, where?

A No answer needed.

Q50 When?

A No answer needed.

Q51 Under what circumstances?

A No answer needed.

Q52 Did you, at any time at all, ever own any such United States Treasury Notes?

A No.

Q53 If you know, did your husband ever own any?

A He did not.

Q54 Before August, 1966 did you or your husband get any such Treasury Notes from a bank?

A No.

Q55 Or from a stockbroker, or brokerage house?

A No.

Q56 Or from anyone else?

A No.

Q57 If your answer to any of questions 52-56 is

"yes," please supply details as to records of purchase or getting such Treasury Notes, and the source of funds with which any such Notes were bought? (If you have any papers or documents showing such sales or transactions, please produce them as demanded by the subpoena served on you in connection with answering these questions.)

A No answer needed.

Q58 Did you own any United States Treasury Notes that your son Junior brought to the Royal National Bank on 149th Street in the Bronx for sale during August and September of 1966?

A No.

Q59 Did Junior sell any such Treasury Notes for you, or your husband, or your family, in August or September, 1966?

A No.

Q60 Did Junior act as agent for you or your husband, or your family, in August or September, 1966, in selling any such Treasury Notes?

A No.

Q61 Did you, or your husband, or your family, give Junior the authority or right to sell any such Treasury Notes in August or September, 1966?

A No.

Q62 During August or September, 1966, did anyone from Royal National Bank (on 149th Street in the Bronx) get in touch with you--by mail, telephone, or in any other way--about that Bank's sale of United States Treasury Notes brought to that bank for sale by your son, Frank, Junior?

A No.

Q63 Did you have any interest or ownership in any part of the cash proceeds of $212,000 that resulted from the sale of such United States Treasury Notes?

A No.

Q64 From May, 1966 until January, 1967 and after that to the present date, did Junior give or turnover, or transfer any money to you?

A No.

Q65 If so, how much?

A No answer needed.

Q66 If so, when and at what dates or times?

A No answer needed.

Q67 From May, 1966 until January, 1967 and after that to the present date, did Junior give or turnover, or transfer any property to you?

A No.

Q68 If so, what kind or kinds of property?

A Yes.

A No answer needed.

Q69 If so, what were the items of property?

A No answer needed.

Q70 If so, what were they worth--their value?

A No answer needed.

Q71 If so, when and at what dates or times?

A No answer needed.

Q72 If you know, during that same time period, did Junior transfer any money or property to your husband?

A He did not.

Q73 From May, 1966 up to the present time, did Junior ever give you, or hand over to you, or did you hand over or give to him, any United States Treasury Notes or United States Bonds?

A No.

Q74 If so, how many?

A No answer needed.

Q75 If so, just when and at what times?

A No answer needed.

Q76 If you know, during that same time period, did Junior ever hand over or give to your husband, or did he hand over or give to Junior, any such Treasury Notes or United States Bonds?

A He did not.

Q77 During August through October, 1966, did Junior give or hand over to you any proceeds from the sale of United States Treasury Notes?

A No.

Q78 During same time period, did he give or hand over any such proceeds from such sale to your husband?

A No.

Q79 During same time period, to your knowledge, did he give or hand over any such proceeds to any other member or members of your family?

A He did not.

Q80 In 1966, did you sell any United States Treasury Notes through any bank or broker?

A No.

Q81 Did your husband?

A No.

Q82 During August and September, 1966, do you know how Junior got 26 United States Notes, Series A, 1970?

A No.

Q83 Or from whom he got them?

A No.

Q84 Or where he got them?

A No.

Q85 Or exactly when he got them?

A No.

Q86 Do you know if, during August and September, 1966, Junior owned any United States Treasury Notes?

A No.

Q87 During August and September, 1966, do you know what Junior did with the $212,000 received on the sale of said United States Notes?

A No.

Q88 Did anyone at the Royal National Bank get in touch with you in August or September, 1966, concerning the deposit of said proceeds from sale of said Treasury Notes in that same bank in an account in the name of Frank Mazzochi, Jr.?

A No.

Q89 Or did anyone from that Bank, during that same time period, get in touch with anyone in your family concerning such deposit in such an account--if you know?

A No.

Q90 Did you authorize Royal National Bank to deposit any part of said proceeds in an account at said Bank in the name of Frank Mazzochi, Jr.?

A No.

Q91 If you know, did any member of your family give said Bank any such authorization?

A None did.

Q92 Do you know anything at all about what has happened to any part of said $212,000? (If so, relate details).

A No.

Q93 In August and September, 1966, what were your own total personal assets--like real estate, bank accounts, other money, bonds, stocks, automobiles or trucks or other vehicles, jewelry, paintings or other art objects, furs, stamp or coin collections, furniture, rugs and appliances?

A $20,000 for both.

Q94 During August and September, 1966, what were your debts--what did you owe to anyone?

A Nothing.

Q95 During that time, to your knowledge, what were your husband's debts?

A Nothing.

Q96 During that time, how much more property or assets did you own, than the total you owed for your debts and obligations?

A No answer needed.

Q97 Or, during that time, did you owe more in debts than the property or assets you owned was worth?

A No answer needed.

Q98 Referring to questions 54, 55, 57 above, about papers showing ownership by you or your husband of any of the 26 United States Treasury Notes about which this deposition is concerned--do you, or your husband, have any paper or papers from a bank or a broker called a "billing"?

A No.

Q99 Or a "confirmation of purchase"?

A No.

Q100 In August-September of 1966, if a Royal Bank representative inquired from you if you owned any of these 26 United States Treasury Notes, what did you, or would you have answered?

MR. BAJO: In accordance with Exhibit No. 1, Defendant Royal objects to question No. 100 on the ground it is hypothetical and calls for speculation of the witness.

MR. MARKOWITZ: You may answer.

A Hypothetical.

Q101 If such inquiry were made, did you, or would you have said, that Junior was selling said Treasury Notes for you, or your husband or for both?

MR. BAJO: In accordance with Exhibit No. 1, Defendant Royal objects to question No. 101 on the

grounds it is hypothetical and calls for speculation of the witness.

MR. MARKOWITZ: What is your answer?

A Hypothetical.

Q102 Did you, or would you have said, that Junior could use or dispose of the proceeds received from Royal National Bank from the sale of said Notes?

MR. BAJO: In accordance with Exhibit No. 1, Defendant Royal objects to question No. 102 on the grounds it is hypothetical and calls for speculation of the witness.

A Hypothetical.

Q103 In or after January, 1967, did you--and your husband--move to another Brooklyn address?

A Yes.

Q104 If so, when?

A January, 1967.

Q105 If so, what was the street address?

A 524 East 22nd Street, Brooklyn.

Q106 What type of building was it?

A Apartment building.

Q107 To refresh your memory if you do not remember, was it, or was it not, an apartment house building of several stories?

A No answer needed.

Q108 About how many apartments were there?

A Twenty-three.

Q109 Was your husband superintendent at 524 E. 22nd Street, Brooklyn?

A Yes.

Q110 When did the employment begin?

A January, 1967.

Q111 When did it end?

A April, 1970.

Q112 While he was superintendent at 524 E. 22nd Street, did you occupy at that address an apartment rent-free?

A Yes.

Q113 Did he get a monthly salary?

A Yes.

Q114 If so, how much?

A $70 per month.

Q115 Do you know a Mr. Noah Braunstein, a lawyer?

A Yes.

Q116 Did you have any talks with Noah Braunstein during January, 1968?

A I am not sure.

Q117 Was Junior tried on a criminal charge in

January, 1968 before the New York Supreme Court, with a jury trial in Bronx County?

A Yes.

Q118 Do you know what that criminal charge was?

A For receiving stolen property.

Q119 Did that charge have anything to do with possession by Junior, of the 26 United States Treasury Notes the subject of earlier questions?

A Yes.

Q120 Was he found guilty?

A Some of the charges he was.

Q121 When did you and your husband move to Florida?

A April, 1970.

Q122 Where have you lived the past two years?

A Brooklyn and Century Village.

Q123 What type of building is it?

A Condominium.

Q124 Do residents buy apartments to live there?

A Yes.

Q125 Did you and your husband buy your apartment?

A Yes.

Q126 How much did it cost altogether?

A $10,025.

Q127 How much of a down payment did you or your husband make?

A A thousand dollar check we sent out.

Q128 Was the down payment paid in cash?

A No, check.

Q129 Did any part of this cash come from your son Junior?

A No.

Q130 Or from or through any person acting for Junior?

A No.

Q131 Have you, personally, ever had an account in the Mutual Credit Union in New York City?

A Yes.

Q132 Has your husband ever had an account there?

A Yes.

Q133 Have any of your sons ever had such accounts?

A Yes.

Q134 If so, which ones?

A Frank, Richard and Robert.

Q135 Does Junior still have an account there?

A I don't know.

Q136 Did you ever have any interest in Junior's account there?

A No.

Q137 Did your husband ever have any interest in Junior's account there?

A Yes.

Q138 When was Frank, Jr. born?

A December 22, 1936.

Q139 Where?

A New York City.

Q140 Was STagg 2-3835 your telephone number in 1966?

A Yes.

Q141 Was STagg 2-3835 listed as the telephone number of Frank Mazzochi, Jr. in the summer, 1966?

A No.

Q142 Where did Frank Mazzochi, Jr. reside in the summer of 1966?

A Queens, New York.

Q143 Did the New York City police question you about the Treasury Notes Frank, Jr. brought into the Royal National Bank for sale in 1966?

A No.

Q144 Did you ever give the New York City police a written statement about these notes?

A No answer needed.

Q145 Did the F.B.I. ever question you about the Treasury Notes Frank, Jr. brought into the Royal National Bank for sale in 1966?

A No.

Q146 Did you ever give the F.B.I. a written statement?

A No answer needed.

Q147 Was Frank Mazzochi, Jr. ever arrested before August, 1966?

A Yes.

Q148 If so, give details.

A Well, his wife claimed that he gave her a beating and the charges were dismissed.

MR. MARKOWITZ: That's all

(Time noted: 1:30 p.m.)

Anna Mazzochi

Subscribed and sworn to before me

this 4 day of August 1971.

Janet K. Brown

JANET K. BROWN
Notary Public, State of New York
Qualified in New York County
No. 31-0492250
Commission Expires March 30, 1972

A Three.

Q6 Of those who may be living, please state their names, ages and present addresses, and where they were born?

A Can I refer back to my --

MR. BLEIWAS: Off the record.

(Discussion off the record.)

A Frank, Junior, age 34, born New York City; Richard, age 30, born Brooklyn, New York; Robert, age 24, born Brooklyn, New York.

MR. MARKOWITZ: Read the answer, please.

(Answer read.)

MR. MARKOWITZ: Present addresses.

A Frank, Junior, Greenwich Prison; Richard, San Diego, I think, 2153 Cable Street; Robert, Ronkonkoma, New York, 206 Avenue B.

BY MR. MARKOWITZ:

Q7 Did your son by name of Frank Mazzochi, Junior (hereinafter referred to throughout as "JUNIOR") go to high school?

A Yes, sir.

Q8 In what city and state did he attend high school?

A Brooklyn, New York.

Q9 If you know or remember, what was the name of the high school?

A Brooklyn Automotive Trade School.

Q10 Was it a high school for learning trades?

A Yes.

Q11 Was it a school of Automotive Trades?

A Yes.

Q12 Did Juniorgraduate?

A No.

Q13 What year did he leave the Automotive Trades school?

A 1954.

Q14 What kind of work did Junior do to earn a living from 1954 until the summer of 1966?

A I think he was a salesman, he was president of credit union, and in the real estate business.

Q15 What kind of work was Junior in, during the spring and summer months of 1966?

A I do 'know. I don't remember.

The same; real estate business, president of credit union. That's about all I know.

Q16 We direct your attention to August and September, 1966. In what city, and at what street address, were you living then?

A 247 So. 3rd Street, Brooklyn, New York.

Q17 Did your wife, Anna, also live there then?

A Yes.

Q18 Did any of your sons also live there?

A No.

Q19 If so, which ones? Please give names.

MR. BLEIWAS: Off the record.

(Discussion off the record.)

MR. MARKOWITZ: It is --

MR. BLEIWAS: It is your suggestion to put it on the record.

MR. MARKOWITZ: 19, the parties concede no answer is required.

BY MR. MARKOWITZ:

Q20 Of these sons that were living with you in August and September, 1966, how was each employed then?

A No answer required.

Q21 Where was each son then working or employed?

A See the answer to question 15 as regards Frank, Junior. Richard was working for Day Top Village, New York City. Robert was stationed in Vietnam working for the Government.

Q22 Is 247 So. 3rd Street in the Williamsburg section of Brooklyn?

A Yes.

Q23 Is 247 So. 3rd Street an apartment house?

A Yes.

Q24 Is it 5 floors, walk-up?

A Yes.

Q25 Was it tenanted, in 1966, by persons of high or low income?

MR. BAJO: In accordance with Exhibit No. 1 Defendant Royal objects to question No. 25 on the grounds it is ambiguous.

A Low income.

Q26 In 1966, what was your rental, monthly, for your apartment?

A $42.30.

Q27 How many rooms did you and your family live in at 247 So. 3rd Street?

A Four rooms.

Q28 How long had you lived there?

A Thirty years.

Q29 How many tenants, or apartments, are there?

A Thirty.

Q30 Are there fire escapes on the outside of the building?

A Yes.

Q31 Did the neighborhood of that apartment house become better or worse during the 1950's?

A Worse.

MR. BAJO: In accordance with Exhibit No. 1 Defendant Royal objects to question No. 31 on the grounds it is ambiguous.

Q32 Did the neighborhood become better or worse during the 1960's?

MR. BAJO: In accordance with Exhibit 1 Defendant Royal objects to question No. 32 on the grounds that it is ambiguous.

MR. MARKOWITZ: Answer?

A Worse.

Q33 What number apartment did you live in, in 1966?

A E1.

Q34 In 1966, when you were living at that apartment address, did you know a Mr. Marchi?

A No.

Q35 Was Mr. Marchi then the superintendent at that apartment house?

A No answer needed.

Q36 Before Mr. Marchi became superintendent there, were you the superintendent?

A No.

Q37 For how long--from when to when--were you the superintendent?

A No answer needed.

MR. MARKOWITZ: I am not --

MR. BLEIWAS: Bring him before the Judge and ask him who the superintendent was. He said "no." You want -- off the record.

(Discussion off the record.)

BY MR. MARKOWITZ:

Q38 No answer required.

A No answer needed.

MR. KOMOROFF: Does the record show that he was never?

MR. MARKOWITZ: Yes.

MR. KOMOROFF: He can answer that way for 38.

Q38 How were you paid as superintendent?

A No answer needed.

Q39 Did you get your rent free for doing that work?

A No answer needed.

Q40 What apartment did you live in while Mr. Marchi was superintendent?

A We always occupied apartment E1.

Q41 Did you have a telephone at your residence in 1966?

A Yes.

Q42 Was the number STagg 2-3835?

A Yes.

Q43 I show you a group of pictures of a building marked plaintiff's Exhibits 1A to 1B for identification. Are these pictures of the apartment house in which you and your family lived in 1966?

A You never mailed me a copy of them.

MR. BLEIWAS: Off the record.

(Discussion off the record.)

MR. MARKOWITZ: Mr. Alpern, we are going to have the reporter mark these now.

THE WITNESS: Yes, that's the building I lived in.

MR. MARKOWITZ: We will have these marked by the reporter and you will get these together with the original deposition and make it a part of the papers that are to be filed. All right. Mark these.

(4 pictures of a building marked Plaintiff's Exhibit No. 1, 2, 3, 4 for identification, respectively, as of this date.)

BY MR. MARKOWITZ:

Q44 I show you another group of pictures marked plaintiff's Exhibits 2A to 2E, for identification. Are these pictures of the blook in Williamsburg where you lived in 1966?

A Yes.

MR. MARKOWITZ: Mark these.

(3 pictures of block in Williamsburg were marked Plaintiff's Exhibit 5, 6, and 7 for identification, respectively, as of this date.)

BY MR. MARKOWITZ:

Q45 Do you know the meaning of the term "securities"?

A Yes.

Q46 If lawyers, or bankers, or brokers, or investors, talk about "securities", do you understand what they are talking about?

MR. BAJO: In accordance with Exhibit 1, Defendant Royal objects to question No. 46 on the ground it is ambiguous and calls for speculation of the witness.

MR. MARKOWITZ: You may answer.

A Yes.

Q47 Do you know what a "security" is?

A Yes.

Q48 From May, 1966 to January, 1967, did Frank, Jr. give or transfer to you any securities?

A No.

Q49 Do you know what a United States Treasury Note

looks like?

A No.

Q50 Did you ever see such a Treasury Note?

A No.

Q51 Did you ever hold one in your hand?

A No.

Q52 If so, where?

A No answer needed.

Q53 When?

A No answer needed.

Q54 Under what circumstances?

A No answer needed.

Q55 Did you, at any time at all, ever own any such Treasury Notes?

A No.

Q56 If you know, did your wife ever own any?

A No.

Q57 Before August, 1966 did you or your wife get any such Treasury Notes from a bank?

A No.

Q58 Or from a stockbroker or brokerage house?

A No.

Q59 Or from anyone else?

A No.

Q60 If your answer to any of questions 55-59 is "yes", please supply details as to records of purchase, or getting such Treasury Notes, and the source of funds with which any such Notes were bought. If you have any papers or documents showing such sales or transactions, please produce them as demanded by the subpoena served on you in connection with answering these questions.

A No answer needed.

Q61 Did you own any United States Treasury Notes that your son Junior brought to the Royal National Bank on 149th Street in the Bronx for sale during August and September of 1966?

A No.

Q62 Did Junior sell any such Treasury Notes for you, or your wife, or your family, in August or September, 1966?

A No.

Q63 Did Junior act as agent for you, or your wife, or your family, in August or September, 1966, in selling any such Treasury Notes?

A No.

Q64 Did you, or your wife, or your family, give Junior the authority or right to sell any such Treasury Notes in August or September, 1966?

A Never give any such notes to authorize.

Q65 During August or September, 1966, did anyone from Royal National Bank (on 149th Street in the Bronx) get in touch with you--by mail, telephone, or inany other way--about that Bank's sale of United States Treasury Notes brought to that bank for sale by your son Frank, Junior?

A No.

Q66 Did you have any interest or ownership in any part of the cash proceeds of $212,000 that resulted from the sale of such United States Treasury Notes?

A Did not even know of their existence.

Q67 From May, 1966 until January, 1967 and after that to the present date, did Junior give or turn over, or transfer any money to you?

A No.

Q68 If so, how much?

A No answer needed.

Q69 If so, when and at what dates or times?

A No answer needed.

Q70 From May, 1966 until January, 1967 and after that to the present date, did Junior give or turn over, or transfer any property to you?

A No.

Q71 If so, what kind or kinds of property?

A No answer needed.

Q72 If so , what were the items of property?

A No answer needed.

Q73 If so, what were they worth - their value?

A No answer needed.

Q74 If so, when and at what dates or times?

A No answer needed.

Q75 If you know, during that same time period, did Junior transfer any money or property to your wife?

A He did not.

Q76 From May, 1966 up to the present time, did Junior ever give you, or hand over to you, or did you give or hand over to him, any United States Treasury Notes, or United States Bonds?

A No.

Q77 If so, how many?

A No answer needed.

Q78 If so, just when and at what times?

A No answer needed.

Q79 If you know, during that same time period, did Junior ever hand over or give to your wife, or did she give or hand over to him, any such Treasury Notes or United States Bonds?

A He did not.

Q80 During August through October, 1966, and later, did Junior give or hand over to you any proceeds from the sale of United States Treasury Notes?

A No.

Q81 During same time period, did he give or hand over any such proceeds from such sale to your wife?

A No.

Q82 During same time period, to your knowledge, did he give or hand over any such proceeds to any other members of your family?

A He did not.

Q83 In 1966, did you buy or sell any United States Treasury Notes, Series A, 1979 through any bank or broker?

A No.

Q84 Did your wife?

A No.

Q85 During August and September, 1966, do you know how Junior got 26 United States Treasury Notes, Series A, 1970?

A I don't know that he had notes.

Q86 Or from whom he got them?

A No.

Q87 Or where he got them?

A No.

Q88 Or exactly when he get them?

A No.

Q89 Do you know if, during August and September, 1966, Junior owned any United States Treasury Notes, Series A, 1970?

A No.

Q90 During August and September, 1966, do you know what Junior did with the $212,000 received on the sale of said 26 United States Treasury Notes?

A No.

Q91 Did anyone at the Royal National Bank get in touch with you in August or September, 1966, concerning the deposit of said proceeds from sale of said Treasury Notes in that same bank in an account in the name of Frank Mazzochi, Jr.?

A No.

Q92 Or did anyone from that Bank, during that same time period, get in touch with anyone in your family concerning such deposit in such an account - if you know?

A No.

Q93 Did you authorize Royal National Bank to deposit any part of said proceeds in an account at said Bank in the name of Frank Mazzochi, Jr.?

A No.

Q94 If you know, did your wife or any member of your family give said Bank any such authorization?

A Nobody did.

Q95 Do you know anything at all about what has happened to any part of said $212,000? (If so, relate details.)

A No.

Q96 In August and September, 1966, what were your own total personal assets - like real estate, bank accounts, other money, bonds, stocks, automobiles or trucks or other vehicles, jewelry, paintings or other art objects, furs, stamp or coin collections, furniture, rugs and appliances?

A Approximately, $20,000.

Q97 During August and September, 1966, what were your debts - what did you owe to anyone?

A Nothing.

Q98 During that time, to your knowledge, what were your wife's debts?

A None.

Q99 During that time, how much more property or assets did you own, than the total you owed for your debts and obligations?

A No answer needed.

Q100 Or, during that time, did you owe more in debts than the property or assets you owned was worth?

A No answer needed.

Q101 Referring to questions 57, 58, 60 above, about papers showing ownership by you or your wife of any of the 26 United States Treasury Notes about which this deposition is concerned--do you, or your wife, have any paper or papers from a bank or a broker called a "billing"?

A No.

Q102 Or a "confirmation of purchase"?

A No.

Q103 In August-September 1966, if a Royal Bank representative inquired from you if you owned any of these 26 United States Treasury Notes, what did you, or how would you have answered?

MR. BAJO: In accordance with Exhibit No. 1, Defendant Royal objects to question No. 103 on the ground it is hypothetical and calls for speculation of the witness.

A Hypothetical question.

Q104 If such inquiry were made, did you, or would you have said, that Junior was selling said Treasury Notes for you, or your wife, or for both?

MR. BAJO: In accordance with Exhibit No. 1,

Defendant Royal objects to question No. 104 on the ground it is hypothetical and calls for speculation of the witness.

A Hypothetical question.

Q105 Did you, or would you have said, that Junior could use or dispose of the proceeds received from Royal National Bank from the sale of said Notes?

MR. BAJO: In accordance with Exhibit No. 1, Defendant Royal objects to question 105 on the ground it is hypothetical and calls for speculation of the witness.

A Hypothetical question.

Q106 In or after January, 1967, did you--and your wife-- move to another Brooklyn address?

A Yes.

Q107 If so, when?

A January, 1967.

Q108 If so, what was the street address?

A 524 East 22nd Street, Brooklyn.

Q109 What type of building was it?

A Apartment house.

Q110 To refresh your memory if you do not remember, was it, or was it not, an apartment house building of several stories?

A No answer needed.

Q111 About how many apartments were there?

A Twenty-three.

Q112 Were you superintendent at 524 E. 22nd Street, Brooklyn?

A Yes.

Q113 When did the employment begin?

A January, 1967.

Q114 When did it end?

A April, 1970.

Q115 While you were superintendent at 524 E. 22nd Street, did you occupy at that address an apartment rent-free?

A Yes.

Q116 Did you get a monthly salary?

A Yes.

Q117 If so, how much?

A $70 a month.

Q118 Do you know Noah Braunstein, a lawyer?

A Yes.

Q119 Did you have any talks with Noah Braunstein during January, 1968?

A I can't recall any, but I may have.

Q120 Was Junior tried on a criminal charge in January, 1968 before the New York Supreme Court, with a

jury trial, in Bronx County?

A Yes.

Q121 Do you know what that criminal charge was?

A Receiving stolen property.

Q122 Did that charge have anything to do with possession, by Junior, of the 26 United States Treasury Notes the subject of earlier questions?

A Yes.

Q123 What was the outcome of such criminal prosecution of Junior in Bronx County?

A He was found guilty on some of the charges.

Q124 Was he found guilty?

A No answer needed.

Q125 When did you and your wife move to Florida?

A April, 1970.

Q126 Where have you lived the past two years?

A Brooklyn and Florida.

Q127 What type of building is it?

A Apartment type condominium.

Q128 Do residents buy apartments to live there?

A Yes.

Q129 Did you buy your apartment?

A Yes.

Q130 How much did it cost altogether?

A $10,025.

Q131 How much of a down payment did you make?

A A thousand dollars.

Q132 Was the down payment paid in cash?

A Check.

Q133 Did any part of this cash come from your son Junior?

A No.

Q134 Or from or through any person acting for Junior?

A No.

Q135 Have you, personally, ever had an account in the Mutual Credit Union in New York City?

A Yes.

Q136 Has your wife ever had an account there?

A Yes.

Q137 Have any of your sons ever had such accounts?

A Yes.

Q138 If so, which ones?

A Frank, Richard and Robert.

Q139 Does Junior still have an account there?

A I don't know.

Q140 Did you ever have any interest in Junior's account there?

A Yes.

Q141 Did your wife ever have any interest in Junior's account there?

A No.

Q142 When was Frank, Junior born?

A December 22, 1936.

Q143 Where?

A New York City.

Q144 Do you know who Frank L. Mazzochi is?

A Yes.

Q145 Were you in 1966 also known as Frank L. Mazzochi?

A I will answer yes to the question.

Q146 Was STagg 2-3835 your telephone number in 1966?

A Yes.

Q147 Was STagg 2-3835 listed as the telephone number of Frank Mazzochi, Jr. in the summer, 1966?

A No.

Q148 Where did Frank Mazzochi, Jr. reside in the summer, 1966?

A Queens.

Q149 Did the New York City police question you about the Treasury Notes Frank, Jr. had brought into the Royal National Bank for sale in 1966?

A Yes.

Q150 Did you ever give the New York City police a written statement about these notes?

A No.

Q151 Did the F.B.I. ever question you about the Treasury Notes Frank, Jr. had brought into the Royal National Bank for sale in 1966?

A No.

Q152 Did you ever give the F.B.I. a written statement?

A No.

Q153 Was Frank Mazzochi, Jr. ever arrested before August, 1966?

A Yes.

Q154 If so, give details.

A His wife claimed that he hit her, brought him to Court and the case was dismissed.

MR. MARKOWITZ: That's all.

(Time noted: 12:50 p.m.)

Frank Mazzochi

Subscribed and sworn to before me

this 14 day of August, 1971.

Janet K. Brown

JANET K. BROWN
Notary Public, State of New York
Qualified in New York County
No. 21-0452250
Commission Expires March 30, 1973

authorized to administer an oath, with the same force and effect as if signed and sworn to before the officer before whom said deposition is taken.

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to form, are reserved to the time of trial.

oOo

C O N R A D H O F F M A N, called as a witness by plaintiff, being first duly sworn by the Notary Public (Anne S. Buttner), testified as follows:

EXAMINATION BY MR. MARKOWITZ:

Q Mr. Hoffman, will you state your full name and address?

A Conrad Hoffman, 1700 Grand Concourse, Bronx, New York 10457.

Q Now, in August 1966, what was your connection with the Royal National Bank?

A Assistant vice president.

Q Has that changed since then?

A No.

Q As assistant vice president, tell us what your duties were.

A Operations officer.

Q What does that mean?

A Taking care of the general running of the bank, of this particular office.

Q In other words, everybody else in this branch, except Mr. Gutstein,was under your jurisdiction; is that correct?

A Not necessarily. All according to what it might be. As far as credit is concerned or loans, doesn't come under my jurisdiction.

Q That came under Mr. McGraw's jurisdiction?

A That's right.

Q How long had you been with the bank prior to August 1966?

A 1951.

Q I show you Exhibit 31 and ask you if your initials appear on this exhibit.

MR. GANS: Excuse me. You are more familiar with numbers than I am. Which one is that?

MR. MARKOWITZ: That's the Unit Home Repairs.

A Yes. My initial is on there.

Q Will you point them out?

A Yes.

Q And, this is the lower left-hand side?

A Lower left-hand side. Looks like the second initial there.

Q Just "H"?

A That's what it is, an "H."

Q Just an "H." Is that the first or the second?

A Second.

Q That's an "H." All right, the second initial.

Now, is there any particular sequence in which these interview sheets for new accounts are passed around among the officers of the bank?

A Well, what happens on that is after they have all the papers, that is, when I say "they," I am referring to the clerk; the officer opens the account and he turns over all the papers along with this sheet to the clerk for filing and to see whether all the papers are there.

When they get all the papers together, then, at least once a week, they hand the interview sheets around to all the officers just to show them that the account has opened up.

Q In other words, they would save them for a period of days, then hand them all around at one time?

A That's right.

Q Or would they be handed around immediately?

A Not necessarily so.

Q I direct your attention to the words in red in the upper left-hand corner of this Exhibit 31 where it says "Caution uncollected."

What does that mean?

A That if any checks are presented for payment and the money is uncollected, the balance is uncollected, they are not to pay against the uncollected funds.

Q Is that with only certain particular accounts?

A Only if the officer who had opened the account figured that he just wanted to be a little careful on it.

Q Who would that be?

A This looks as though it were opened by Delatte.

Q Would those words appear on any other record of the bank aside from this interview sheet of new accounts?

A No.

Q Would it appear on the--what do you call it--ledger card?

A Analysis card.

Q The balance card?

A Possibly. It is the analysis card.

Q Tell us what an analysis card is.

A Well, if you take a look--I don't know if you have seen any there, but the computer makes an analysis of all the accounts in regards to whether they are earning

the analysis department or so, I have no idea, rather than in the computer department.

Q Did you read the material set forth on Exhibit 31, the interview sheet for Unit Home Repairs, before you initialed it?

A I always look it over.

Q Did you notice the name Frank Mazzochi, Jr. as secretary-treasurer?

A I would think so.

Q Did you see that when you read it?

A No. I probably--I don't remember whether I saw it then; but, I say I would think so, because I always look these things over when I--

Q You do, before you initial them?

A Yes.

Q Would you be in a position to reject any particular account that made application to this bank?

A If I knew anything detrimental, yes.

Q Did you notice anything detrimental to this account?

A No, sir. I did not.

Q On August 6, 1965, did you know Frank Mazzochi, Jr.?

A I did not.

A No, sir, I do not.

Q Did you know that before that time Mr. Mazzochi had presented to Mr. Kayner and Mr. Santoro certain Treasury notes in the sum of $10,000 each for the purpose of having them cashed for the--

A No, sir.

Q Mr. Kayner didn't talk to you about that?

A No, sir.

Q Mr. Santoro didn't talk to you about that?

A No, sir.

Q Had they on prior occasions where somebody had come to the bank and asked that the bank sell for him or for her Treasury notes or stocks or bonds, had you been consulted by either?

A No, not necessarily so.

Q Would there be certain circumstances where they would consult with you?

A Not really, no.

Q Well, have they ever consulted with you, Mr. Hoffman, about a transaction of that type?

A Look, I have been in banking for 40 years. There may have been some time; but, if you are referring specifically to Mazzochi, I will say no.

Q Well, did you know that Mr. Mazzochi brought in

a $10,000 Treasury note on or about August 4th or 5th?

A I did not.

Q Did you know that on the same day at a later time, Mr. Mazzochi brought in six more Treasury notes for $10,000 each?

A I did not.

Q Neither Mr. Kayner nor Mr. Santoro discussed this with you?

A They did not.

Q Did you know Mr. Mazzochi prior to August 4th or 5th, 1966?

A I have never met the man.

Q Did you meet him after that?

A Met him one time on the banking floor with Mr. McGraw.

Q When?

A That time was--I can't give you any dates, but it was when the money from the sale of these notes was thrown into suspense account and wouldn't be released to him.

Q Would that be about $70,000 worth?

A I don't have any recollection of the amount at all.

Q You met him on the floor with Mr. McGraw.

What happened? Who said what?

A Only Mr. McGraw said, "Mr. Mazzochi is looking to get his money out of the bank."

Q Did he mention the amount to you?

A May have.

Q Is that such a common, ordinary, everyday occurrence you have no present recollection?

A No. By this time, I knew what the story was.

Q When had you found out? How many days or weeks prior?

A Probably the week before.

Q The week before.

Who had told you the story the week before?

A When the transaction, as far as the large cash transactions were brought to my attention.

Q You mean the cash withdrawals or the--

A The cash withdrawals.

Q Can you tell us who brought it to your attention first?

A Not really.

Q Would it be Mr. McGraw in the usual--

A Possibly.

Q In the usual course of the bank business, would Mr. McGraw be the one to call it to your attention?

A No.

A I asked him and he told me they had put the money into suspense account.

Q That is all he said to you?

A Again, you are asking me to remember his exact words. I don't remember exact words.

Q I want the substance of what Mr. McGraw said to you which caused him to put the money into suspense account.

A That they were suspicious of the bonds and they put it in suspense account.

Q He told you that the week before?

A Don't hold me down to a particular day. A short time before.

Q Had you discussed this with Mr. McGraw alone or with Mr. Gutstein or with anybody else connected with the bank?

A I don't recall whether Gutstein, but all the officers were discussing it. Mr. Kayner.

Q Mr. Santoro?

A Mr. Santoro. He is not an officer.

Q I mean, he was one of the men I am talking about. Anybody else that you can recall?

A No.

Q This was before the day that you met Mr. McGraw and Mr. Mazzochi on the bank floor at which time Mr. McGraw

said to you, "He wants his money"?

A That's right.

Q You didn't, of course, volunteer anything to Mr. McGraw as to whether or not he should release the money?

A I did not.

Q What was your reaction to Mr. McGraw's statement--

MR. BLEIWAS: I am going to object to his personal reaction.

MR. MARKOWITZ: I will withdraw that, Mr. Bleiwas.

BY MR. MARKOWITZ:

Q What was your reaction to Mr. McGraw when he said, "He wants his money"?

A I told him I wouldn't give it to him unless we had legal advice on it.

Q Did you take care of getting legal advice on it?

A No.

Q Did you instruct Mr. McGraw to get legal advice on it?

A No. I believe Mr. McGraw had already been in touch with the attorneys.

Q Prior to that time?

A I believe so.

Q Is that what Mr. McGraw told you?

A I did not.

Q Did you know Warren Weingoff?

A No, sir.

Q Whose address is 136 East 45th Street, Brooklyn?

A Did not know him.

Q Did you know the people whose names appear under the word "References," Arnold Dutchen?

A Arnold Dutchen, yes, sir, I know him.

Q How long did you know him?

A As long as he has been doing banking with us.

Q Jacob Haimowitz, did you know him?

A Yes.

Q Saul Geltman?

A Saul Geltman, I know him.

Q Who is Saul Geltman?

A Real estate man, also a customer of the bank.

Q Jacob Haimowitz?

A He is an attorney, also a customer of the bank.

Q And Arnold Dutchen?

A Insurance man, also a customer of the bank.

Q Did Mr. Kayner or Mr. Santoro come to you at all during the time when Mazzochi was coming into the bank and cashing, asking the bank to sell these Treasury notes for him?

A No, sir.

Q The first knowledge you had then was when the question about the suspense account, moneys being put in a suspense account?

A No, sir. I don't think that is so.

I believe that I had made a report as far as the unusual cash transaction.

MR. MARKOWITZ: Exhibit 58, Mr. Bajo, would you please produce that?

MR. GANS: NN.

BY MR. MARKOWITZ:

Q Now, this Exhibit 58 is a carbon copy of a letter dated September 21, 1966.

Now, did you write this letter of your own volition without consulting with anybody prior to writing it?

A Without consulting?

Q Yes.

A If I wrote the letter, I know that I spoke to somebody that I was writing the letter and whether consulting with them, whether I should do it or not, this is done on my own volition.

Q Who told you about these withdrawals amounting to $138,000?

A Again, I say that I don't recall.

source of recollection at this time

you have before you, marked Exhibit 58, you say:

"Enclosed please find form representing an unusual currency transaction."

In what respect did you deem this transaction an unusual currency transaction?

A $138,000 or $140,000, whatever it was, they took out of there in a short period of time and, as I see here, I say involved cash transactions--this is an unusual transaction.

Q You were following the instructions on the back of the report which read:

"In the judgment of the financial institution exceeded those commensurate with the customary conduct of the business, industry or profession of the person or organization concerned,"

were you not?

MR. BAJO: Excuse me.

Will you just identify the passage you are reading from?

MR. MARKOWITZ: All right.

Will you produce the report which is 00 of the answers to interrogatories?

MR. BLEIWAS: I think that the record should indicate here that this is a form of the U.S. Treasury

Department instructions requires a report as stated in (2):

"Transactions involving $10,000 or more of United States currency in any denominations."

So, I am going to object to your taking one small portion of that instruction form of the Treasury Department.

MR. MARKOWITZ: Mr. Bleiwas, I am using that language--

MR. GANS: Off the record.

(Discussion off the record.)

MR. MARKOWITZ: Mr. Bleiwas, on the record, the reason I use that language in quoting from the instructions on the back of Exhibit 59 was because the letter, Exhibit 58, says:

"Enclosed please find form representing an unusual currency transaction."

BY MR. MARKOWITZ:

Q In your judgment, that was an unusual transaction?

A In my judgment, it was.

Q And, you felt as though you were duty bound to report it?

A In my judgment, it was.

Q And, you felt that it covered the instructions on

BY MR. MARKOWITZ:

Q I am asking you particularly whether or not this is an unusual currency transaction for Mr. Mazzochi.

A In my opinion, yes.

Q You are familiar with the average balances that the Mutual Credit Union had in the bank?

A Not necessarily so, no.

I wouldn't be familiar with every customer that we have in the bank.

Q Let's talk about the Mutual Credit Union.

You say on the Exhibit 59 that the name is Frank Mazzochi, Jr., his address is 247 South Third Street, Brooklyn, New York and his business, profession or occupation is president of Mutual Credit Union.

Now, did you, at that time, check the average balance of the Mutual Credit Union?

A I couldn't answer that. I would say no, offhand.

Q Did you check the account that Mr. Mazzochi had in his personal name?

A I looked at his average balance card.

Q Did you know, at that time, that he had opened a personal checking account at the bank on or about--

A If I saw the interview sheet, I could tell you.

MR. GANS: It was some time in August.

letter was written pursuant to these instructions, then I withdraw my objection. But, if you imply that the letter was written pursuant to the Treasury Department instructions, then I object because nowhere is "unusual," to use the word in the letter and which you have adopted, appear in the instructions.

BY MR. MARKOWITZ:

Q All right, Mr. Hoffman, aside from the Treasury report of currency transactions, Exhibit 59, was this an unusual currency transaction for Frank Mazzochi, Jr.?

A In my opinion, yes.

Q What investigation did you make to determine whether this was an unusual currency transaction?

MR. BLEIWAS: Why don't you ask him if he made any first? Then we will determine what he made.

You are leading him. I object to that form, Mr. Markowitz.

MR. MARKOWITZ: You are right. As far as I am concerned, if you want me to clutter up--

MR. BLEIWAS: Yes. I want you to. I insist it be proper. I don't consider it cluttering.

Q Did you make an investigation before you sent out this letter, Exhibit 58, September 21, 1966?

A As to the number of withdrawals and the amount,

yes.

Q What investigation did you make?

A I checked how many withdrawals were made and how much each amount was.

Q On the Frank Mazzochi, Jr. account?

A That's right.

Q And, did you notice at that time that the account had been opened on August 8, 1966?

A I don't know when these transactions were actually made.

Q Well, you looked at the transcript of the account of Frank Mazzochi, Jr., did you not?

A Yes.

Q Did you then note that there was a number of withdrawals in that account?

A I checked back the checks, the actual checks.

Q That was how much, in what denominations?

A Ten, 25. I don't recall each one.

Q Did you know that Frank Mazzochi, Jr. did not have a personal checking account with this bank prior to August 8, 1966?

A I would say yes, because the interview sheet shows that.

MR. BLEIWAS: Off the record.

MR. MARKOWITZ: Face to face.

MR. BLEIWAS: From a business point of view or personally?

MR. MARKOWITZ: No, personally.

MR. BLEIWAS: You don't mean--

BY MR. MARKOWITZ:

Q How many times did you meet him in the bank?

A That was the first time.

Q How many times did you meet him in the bank?

A I have seen him around when I have spoke to him.

Q Do you recall a time when Rose Moscatello, who was then chief teller, came to you and asked you about the check that Mazzochi wanted cashed for $10,000?

A Particular check, no.

Q You have no recollection of her coming to you?

A The only thing that I say, it was my impression that she was the one who reported the large withdrawals to me.

Q To you?

A That's right.

Q And, was that at the time of the first or second or third withdrawals?

A I would have no idea.

Q Well, do you recall what she said to you?

A Only that he was withdrawing all this money out.

Q That is all it amounted to?

A That's right.

Q You did nothing as a result of her report to you?

A I believe that's when I started investigating as far as the withdrawals.

Q Well, would that be at the time you sent this letter on September 21st?

A It would be roughly around that time or, as I say, I think I answered that before, that a short time before--could even be a week before.

Q Maybe two weeks before?

A Could be two weeks before.

Q Would that be prior to the time the money was put into the suspense account?

MR. BLEIWAS: He testified he didn't know when it was put in.

A I testified I didn't know when that was put into suspense account.

MR. MARKOWITZ: Off the record.

(Discussion off the record.)

BY MR. GANS:

Q Just to clarify something, to make it perfectly clear: when you talk about withdrawals made by Mazzochi

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to form, are reserved to the time of trial.

IT IS FURTHER STIPULATED AND AGREED that counsel for plaintiff shall furnish a copy of the within deposition to counsel for defendant, without cost.

o0o

I R V I N G H. S T O L Z, called as a witness by plaintiff, being first duly sworn by the Notary Public (Roberta Cummings), and stating his address as 236 East Devonia Avenue, Mount Vernon, New York, testified as follows:

EXAMINATION BY MR. MARKOWITZ:

Q Mr. Stolz, in August 1966, were you an officer of the Royal National Bank?

A Not an officer, no, sir.

Q Were you a member of the board of directors?

A Yes, sir.

Q For how long have you been a member of the board of directors?

A Since 1952.

Q Were you also a member of the executive committee of the bank?

A Yes, sir.

Q And how long had you been a member of the executive committee?

A Possibly since 1952. I'm not sure of that date, but for a long time.

Q Were you also counsel to the bank?

A Yes, sir.

Q How long have you been counsel to the bank?

A Since 1952.

Q What were your duties as counsel to the bank?

A I'm general counsel to the bank.

Q What were your duties?

A To represent the bank as counsel whenever such representation is required.

Q In court actions?

A In any kind of a proceeding, court actions or otherwise.

Q Was there any other person who was counsel to the bank?

A Yes, I have a co-counsel.

Q Who was that, in 1966, in August?

A In August of 1966, yes, sir. Mr. Dave Berg.

Q B-e-r-g?

A Yes, Berg.

Q How long had he been co-counsel?

A Since about 1962 or 1963.

Q Where was your office in 1966, August?

A In 1966 I was in 99 Park Avenue.

Q Did Mr. David Berg have an office with you there?

A No.

Q Where was his office?

A 350 Fifth Avenue.

Q Was it a part of your duties as counsel to the bank to make investigations with reference to any question involving the validity or legitimacy or ownership of securities that a customer brought in to the bank to have sold?

A No. That wouldn't be part of my fixed duties, no.

Q It would not be?

A No.

Q So that, am I to understand that at no time prior to this Mazzochi business, you had never been requested to make any inquiry with reference to the validity or ownership of securities that had been brought in to the bank by a customer for sale?

A Excuse me for a minute. Do I interpret your question to mean, do I actually do the leg work of making inquiries or investigations? I'm trying to understand your question. I don't want to mislead you.

Q Let me then put it this way: Would you be consulted by any officers of the bank to make such investigation?

A Only if there was a--they would consult me if they need legal advice.

Q And that would include the question of whether or not securities that had been offered to the bank for sale were legitimate securities?

A It could sometimes happen, sure.

Q Had it happened prior to the Mazzochi business?

A Could happen.

Q Had it happened, I asked you.

A Your question is so general, I will have to explain my answer to you.

Q Go ahead.

A Frequently somebody might come in to the bank with a security and I might have to pass upon the title to the security, be it a ~~bond or~~ a corporation or an estate of some kind, or whether the transfers were proper, the normal thing that a legal--the normal legal questions that

sometimes come up in connection with transfer of titles to securities.

If there is on the face of the document something which requires a legal opinion, I would be asked to render such a legal opinion.

Q And would that include the question of whether or not securities that had been offered to the bank for sale were stolen securities?

A That hasn't happened in my--with me in my experience excepting once if you consider the Mazzochi case as an instance of that kind.

Q And that's in the Mazzochi case?

A Right.

Q Am I correct in assuming that the first time the Mazzochi situation was brought to your attention was when you received a letter from Edward I. McGraw, assistant vice-president at the branch on 149th Street?

A ~~Yes.~~ I think the letter indicates that there was a telephone conversation which preceded it.

Q Have you got your copy of the letter?

A Not in front of me.

MR. MARKOWITZ: Please give it to Mr. Stolz so he may refer to it.

MR. BAJO: Referring to Plaintiff's Exhibit 57 for identification.

Q Now, you said that the letter referred "to our telephone conversation of Monday, September 19, 1966--"

A Yes, sir.

Q "--regarding the sale of these securities and the withdrawal of the funds."

Now, Mr. McGraw did call you?

A Yes.

Q On Monday, September 19. What did he say to you?

A He told me a customer of the bank had ~~offered~~ some United States Government securities to the bank with the request that they be sold for his account and the money credited to him, and he wished to withdraw the funds from the bank when the credit was made.

Q Had he told you the amounts involved?

A Yes.

Q Tell us what he told you about the amounts involved.

A I have no positive recollection of the amounts. My entire recollection is what I gather from reading this letter of September 21, and from what conversations have taken place since this action ~~has~~ was started.

Q You are referring to Exhibit 57?

A Right.

Q Do you make it your habit to make a record of

MR. BAJO: I would like to show Mr. Stolz Exhibit 56 which was an affidavit signed by Mr. Mazzochi, which might refresh his recollection.

MR. MARKOWITZ: That affidavit was not in existence at the time this conversation took place.

MR. BAJO: That's true.

MR. MARKOWITZ: So this would not refresh his recollection as to what Mr. McGraw had told him?

THE WITNESS: Sir, I'm looking at it in order to get a number from it. Apparently, the number, according to this letter, is $71,698.70, September 12, 1966.

I relate that date to this letter, but I have no direct recollection other than that.

BY MR. MARKOWITZ:

Q What I am trying to find out from you, Mr. Stolz, is what amounts Mr. McGraw had told you Mr. Mazzochi had brought in to the bank in treasury notes for the bank to sell for his account and what other information Mr. McGraw gave you on September 19.

Now, if you can give us that information, please do so.

A I can't give you any direct information excepting what is contained in this Exhibit 57. This is my only

source of recollection at this time.

Q Did Mr. McGraw tell you that he had originally brought in a treasury note for $10,000 on August 4, 1966?

A Possibly he did. I can't say that today.

Q Did Mr. McGraw tell you that Mr. Mazzochi had brought in on August 5, $60,000 worth of treasury notes in denominations of $10,000 each?

A That's possible.

Q And did he tell you that Mr. Mazzochi had brought in on September 12 treasury notes for a total amount of $72,000 for the bank to sell for his account.

A That he must have told me, I'm sure of that.

Q Did he tell you that he had also brought in on August 9, $70,000 worth of treasury notes in denominations of $10,000?

A Possibly.

Q Did you question Mr. McGraw as fully as you wanted, or that you thought was necessary with reference to Mazzochi's bringing in treasury notes?

A I must have.

Q And did you question him with reference to the withdrawals that Mazzochi made from the proceeds of these treasury notes?

A Yes.

Q Did Mr. McGraw tell you that he had placed $72,000 in a suspense account, pending a determination of whether or not Mazzochi was the true owner of those treasury notes?

A ~~Yes.~~ Either Mr. Thayer or I told him to place $72,000 in a suspense account

Q Is there anything else you can tell us about your conversation with Mr. McGraw on September 19, 1966?

A My recollection of it is that I told Mr. McGraw that we ought to make inquiries as to whether or not Mr. Mazzochi owned these bonds or whether these bonds are on any list of the Federal Reserve or the Treasury Department or the Secret Service as being questionable securities.

Q And that advice that you gave to Mr. McGraw was based upon the information he had given you about these transactions?

A On the telephone conversations.

Q So that, may I assume you felt as though an inquiry was necessary?

A Obviously.

Q Did Mr. McGraw tell you or did you ask Mr. McGraw where this man resided, Frank Mazzochi, Jr.?

A I have no recollection of that.

Q Did Mr. McGraw tell you that he was a little bit suspicious about these transactions?

A No.

Q His call to you, Mr. Stolz, then was based upon his own belief that it was necessary to call legal counsel in order to find out whether these monies should be released from the suspense account?

A Yes.

Q Did he tell you that the monies were put in the suspense account?

A No, I must have told him to put it in the suspense account. That's obvious from my memo.

Q Did you ask Mr. McGraw anything else about the financial status of Mr. Mazzochi?

A Yes. I asked him whether he knew who the man was.

Q What did he say?

A He told me the man was a customer of the bank. He had several accounts in the bank under his control.

Q And did you ask him how much was in these accounts, how much money was on deposit in these accounts?

A No.

Q Did you ask him to check that?

A Possibly.

THE WITNESS: I will have to ask you to excuse me for a few minutes. There is a call I must take.

MR. MARKOWITZ: Certainly, Mr. Stolz.

(Whereupon, the witness left the room for a few minutes.)

MR. MARKOWITZ: Would you read the last question and answer, please?

(The last question and answer were read.)

BY MR. MARKOWITZ:

Q Did he tell you that he had checked the balances in the four accounts, Mutual Credit Union, Finncg Limited, D. Gilbert Contractors, and Unit Home Repairs?

A I don't know.

Q Did he tell you that Mazzochi had drawn out over a short period of time a total of $140,000 that had been the proceeds of the previous treasury notes that the bank had sold for him?

A He probably told me that.

Q Did that cause you to be suspicious?

A That caused me to call the controller of the currency and to give him the advice that I gave him, which was to put the money in suspense until we can do some checking.

Q Did you personally call the controller?

A Yes.

Q Have you any recollection of who you spoke with?

A Mr. Nathan.

Q But Mr. Nathan is not the controller?

A Mr. Nathan is the counsel to the deputy controller of the currency.

Q We will come back to that. Is that the only person you called?

A That's right, and I also spoke to Mr. Peter Walter of the bank.

Q Who is he?

A He's the cashier of the bank.

Q Where is he stationed?

A Main office, 48th Street.

Q What did you say to him?

A I told him to put in a check with the Federal Reserve Department, Secret Service, and probably the Justice Department, to find out if these bonds were on any list of bonds concerning which inquiry must be made or should be made.

Q When you say "bonds," you mean treasury notes?

A Treasury notes. These were notes, not bonds, right.

Q Did Mr. Walter report back to you as a result of these conversations?

A Yes, he did.

Q Did he tell you who he had actually called?

A Not the names of individuals.

Q Well, did he tell you who?

A He told me the departments he had called.

Q What did he tell you?

A He called the Secret Service and he called the FBI.

Q And he reported to you what, Mr. Stolz?

A Negative. There was no listing of these bonds as being restricted, restrained, or on any wanted list.

Q Did you rely upon his information to you in eventually making your memo which is endorsed on the letter of September 21, 1966, Exhibit 57?

A That's right. And Mr. Nathan apparently called me back and told me he found nothing on it either.

Q Had you ever spoken to Mr. Nathan before that?

A Sure.

Q On the same topic?

A No.

Q Who is Mr. Nathan?

A Mr. Nathan is counsel to Mr. Van Horne, who is at the moment the deputy controller of the United States--deputy controller of currency of the United States.

THE WITNESS: Excuse me again one moment.

Q Was that one of the things that caused you to direct Mr. Walter to make a check as to whether the securities were stolen?

A No. I simply as a--well, what I hope would be judged to be a prudent lawyer, when he told me there was this substantial amount of bonds to be offered for sale and he was drawing the money out in cash, I said, "Let's make a check and see if there is any restriction on the bonds."

I told him to put the money in a suspense account until we could complete the check and, apparently, that was done, and when the check was completed, I could find no legal reason for withholding the money from the man.

Q When you received this affidavit as enclosure to the letter of September 21, 1966, which is Exhibit 57--

A Yes.

Q --did you suggest to Mr. McGraw that he get such affidavit from Mr. Mazzochi?

A Yes.

Q Did you give him the form of the affidavit?

A No. I may have indicated to him what it should contain, but I didn't write the affidavit.

Q Did you consider this affidavit as sufficient proof of Mazzochi's ownership of these treasury notes

enumerated therein?

A It was an affidavit by him. You say proof. It's his statement.

Q You wouldn't consider that legal proof of ownership, would you?

A It's evidence of ownership. His possession, I suppose, would be proof enough too, for most purposes, wouldn't it?

Q Would you say that Mazzochi's possession of the treasury notes was proof of ownership?

A Would I say?

Q Yes.

A What's the difference what I say?

Q Well, you are being asked as an attorney to give your opinion. What is your answer to that question?

A I asked Mr. McGraw to get an affidavit from Mr. Mazzochi to certify that he was the sole owner of the securities.

I thought it was simply a cautious way of approaching the situation. I had no reason to believe anything was wrong with Mazzochi. I didn't know the man. I never heard of him.

Q You had no reason to believe that there was anything wrong with Mazzochi as a result of the information

that Mr. McGraw had given you as you had so testified?

A I didn't know Mr. Mazzochi from a hole in the wall.

Q I'm talking about the information given to you about periodic deposits of treasury notes and withdrawals in cash almost immediately.

A Well, this is why I initiated this investigation.

Q So there was something wrong with the transaction as far as you could see?

A No.

Q Did you ask Mr. McGraw to get from Mazzochi a confirmation of purchase of these treasure notes by Mazzochi?

A No.

Q You are familiar with confirmation of purchases of securities?

A Yes.

Q It's a usual thing; isn't it?

A No.

Q Well, when a person such as you or I purchases securities or stocks or bonds, we receive a confirmation from the broker, do we not?

A Yes.

Q And that would be usual with purchase of treasure

notes?

A But it's not usual to present the confirmation certificate when you are using the bonds for one purpose or another.

Q Would you have been satisfied if he presented--

A You are asking me what the operation of my mind would have been under those circumstances. I don't know. I got a telephone call--I get dozens of these calls from every officer of the bank.

All day long they come in, they want a quick answer, what should I do under such and such a circumstance, so you make a judgment.

Q But you don't get dozens of calls concerning supposed stolen treasury notes or other securities, do you, Mr. Stolz?

A Counsel, I had no reason or nobody had any reason to believe these were stolen notes at the time.

Q But you had reason to believe they should be checked to see if they were stolen?

A I thought that was indicated.

Q Did you ask Mr. McGraw to get from Mazzochi a document indicating that either he or his family had at one time or another purchased these treasury notes?

A I don't recall that I did.

Q There was such a thing as a bill of sale, Mr. Stolz, you know that, don't you, as a lawyer?

A Am I supposed to answer questions like that?

Q I'm sorry, yes, I have to ask you that question.

A Yes, there is such a thing as a bill of sale, I know that as a lawyer.

Q And there is such a thing as documents of title to even securities?

A Yes, there are such things.

Q Did you suggest to Mr. McGraw that he get Mazzochi to produce these documents of title?

A I don't recall that I did.

Q Wouldn't it be one of the things that you as a cautious lawyer should do in order to protect the bank's interests in selling securities that might possibly have been stolen?

A I thought that what I did was about--was what the situation called for.

Q In other words, the affidavit, Exhibit 56; is that correct?

A Yes.

Q Having Mr. Walter call up these two places, the Secret Service and the--

A FBI.

Q Let's keep this straight. You learned all this from Mr. Nathan.

What did Mr. Nathan say to you exactly?

A I can't tell you what he said to me exactly.

In substance, he told me he could see no reason why I must not remit the money to the depositor.

Q Did he tell you what he had done in order to arrive at that?

A Yes, he did tell me he had checked it out, and he found no record of these bonds being on any special list.

Q By "special list," you understood him to mean what?

A Bonds concerning which inquiry must be made or concerning which inquiry--well, there could be a lot of reasons. Lists may be prepared not only because bonds are stolen. There might be other reasons. I don't know why government authorities prepare these various lists. There might be tax reasons, I don't know.

Q Did Nathan tell you that he had made a search of these lists personally, these special lists?

A I can't say that he told me that.

Q You understood, however, that he had made certain inquiries, whether personal or through other sources; is

that correct?

A That's right.

Q Had Mr. Nathan told you that there were other places that could be asked with reference to the ownership of these treasure notes, whether they were stolen or not?

A I don't believe--I must have told Mr. Nathan that I was making a check through the FBI and the Secret Service. I certainly told him that.

Q What did he say when you told him that? That was enough?

A He thought that I had no legal right to refuse to give the man the money.

Q You haven't answered my question.

A You misunderstand. When a customer comes to a bank and asks for his money as a result of a withdrawal or whatever the occasion may be, if the bank should not honor that withdrawal, frequently people will go to the controller's office and complain: "I put money in the bank or securites in the bank. I want my money and they won't give it to me."

That's where they go. That's the government agency that regulates, and the controller will say, "Why don't you give it to him?"

I give him a reason.

He says, "That's not a good enough reason."

I ought to litigate the matter or whatever it may be. This is the place where we go for advice of this kind. And it was Mr. Nathan's advice that he could find no legal justification for me to keep the money in suspense, but to release it to this man.

He doesn't take the position of direction in these things. He just gives you advice. This is the government talking.

Q Mr. Nathan, you mean?

A Yes.

Q You also say in your memorandum on the letter of September 21, 1966, Exhibit 57, that you conferred with Leonard E. Yoswein on the telephone on three different occasions about this matter.

Had Mr. Yoswein called you or had you called him, originally the first time?

A I wouldn't know.

Q Did you keep any notation of these telephone conversations?

A No, sir.

Q Did Mr. Yoswein tell you that he represented Mazzochi?

A Yes.

Q Did he ask you why these monies were being withheld?

A That's right.

Q What was your answer to him?

A I told him I had instructed that the monies be withheld until we had an opportunity to check through the various government agencies with respect to these particular bonds.

Q Did you speak to him a second time? I see there are three different occasions on when you spoke to him.

A Apparently.

Q Did you call him or did he call you?

A My guess is he called me each time.

Q And the second time he called you--

A He probably wanted to know why I didn't release the money. This is my guess. I don't know.

Q Was it a day or two days or three days?

A It all happened in a matter of a few days. How many days elapsed? You would know better than I.

Q I don't know better than you, Mr. Stolz. You were doing the investigating. I wasn't.

Well, in your talks with Mr. Yoswein, you must

have told him the reasons why the monies were being withheld.

A Sure I told him.

Q You must have told him "Mr. McGraw up at the bank doesn't like the way this thing looks."

Did you tell him that in words or substance?

A I probably told him something to the effect that the idea that he was withdrawing substantial amounts of money in cash was what caused me to do this. If he had not withdrawn the money in cash, I suppose nobody's attention would have been drawn to anything.

Q Did Mr. Yoswein try to persuade you in some manner that the money should be released?

A Yes, sir.

Q What argument did he advance?

A He said I had no legal right to withhold his client's money.

Q Did you ask Mr. Yoswein whether he could produce any documents of title in the name of his client, Mazzochi?

A I have no recollection of that. I may have asked him. I don't know.

Q You may have asked?

A It's possible.

Q It would occur to you as a lawyer that the best

proof of ownership would be some document of title, would it not?

A Not on government bonds, not necessarily.

Q These bonds are usually bought through a broker, are they not? You don't go out on the street and buy them, do you?

A Not necessarily. A lot of these--I can tell you many instances where bonds--during the war time in particular, people were buying bonds through their bosses, through their payroll accounts, in the theatres and in the schools, everywhere you can think of.

Q Mr. Stolz, we are not talking about war bonds. We are talking about $212,000 worth of treasury notes. You don't go to a store, do you, Mr. Stolz?

A You are arguing with me whether there are better forms. I thought we did what was reasonably necessary for us to do.

Q And you thought that was sufficient to protect the Royal National Bank, your client?

A I didn't know that the bank needed any protection. I was just acting with normal caution.

Q So you may have asked Mr. Yoswein to have his clients produce documents of title?

A It's possible.

Q He didn't produce them, however?

A No, other than that affidavit, apparently.

Q Did you discuss with Mr. Walter the question of having Mazzochi produce documents of title?

Are you waiting for a question, Mr. Stolz?

A Did you ask me a question?

Q Yes.

MR. MARKOWITZ: Would you read it back, please?

(The question was read.)

A I don't know. I doubt it.

MR. KOMOROFF: Or Mr. McGraw who was dealing with Mazzochi, did you ask him that Mazzochi should produce a confirmation of purchase or a billing?

THE WITNESS: I may have asked the question. I can't say yes or I can't say no. I probably was groping, get me something. I had no reason to suspect the transaction at all. I was just doing what was prudent under the circumstances. I had no reason to accuse a client--a customer of the bank or even let him know that he was under suspicion. Why? There was no reason to, except for the fact he was withdrawing the money in cash.

A Yes.

Q So the very next day, within twenty-four hours or so after McGraw called you on the phone, someone got a hold of Mazzochi and he produced this affidavit which purports to be his claim of ownership or title to the treasury notes; is that correct?

A My explanation of that is that I must have told Mr. McGraw to have Mr. Mazzochi prepare an affidavit and bring it in.

Q Precisely. All I'm asking you, sir, is from the records in front of you that was done within a period of twenty-four hours or so, was it not? The call to you was on the 19th and the affidavit--

A Apparently. Mr. Mazzochi might have been in the bank when Mr. McGraw spoke to me, and he must have turned to him and said, "I just spoke to our lawyer and he says prepare an affidavit."

Q All right. Within another twenty-four hours and I again refer you to Exhibit 57, this is the letter from Mr. McGraw to you, and that's dated the 31st; isn't it, in which he sends you the affidavit?

A Yes.

Q So that within a period of forty-eight hours from the first call that McGraw made to you about this

result of whatever he did, but I can't sit here and tell you what he did.

Q But you say in your memo here, "After several days of checking, I was told by Mr. Nathan--"

What checking did Mr. Nathan do on this topic?

A I don't know.

Q Did he tell you he had checked for several days?

A I just told you that I don't want to say what he told me. I only know--the purport of the conversation was to tell me that whatever he did, he could find no reason for me withholding the money.

Q In other words, you don't know what he did?

A No.

Q You don't have any idea what he had done in checking?

A No.

Q And you are quite sure that he did not refer you to make your own checks or inquiries into other officers of the Treasury Department?

A Well, I'm quite sure that in our conversations we talked about FBI and Secret Service. Whenever we have an inquiry involving the bank on a security basis, we also--the first thing you do is you check with the FBI, if you want to know whether something has gone wrong or hasn't

gone wrong.

Q He mentioned just the FBI and the Secret Service, no other agency?

A If he did, I'm not conscious of it at the moment.

Q When did you dictate this memorandum, Mr. Stolz? Was it immediately after the events that had happened?

A I would say so. It might have been a day or two that elapsed in between.

Q Does this refresh your recollection as to what Mr. Nathan might have told you about checking further on your own behalf?

A This memorandum?

Q Yes.

A I think I've told you everything that I could gather from this.

Q Well, is it clear that Mr. Nathan knew that Mazzochi had pulled out $140,000 in cash on about a dozen trips to the bank in August of 1966, that he knew that fact?

A I must have told it to him.

Q Now, tell me: Do you remember asking McGraw to ask Mazzochi to produce either a billing from a stock-broker or a confirmation of purchase of these bonds?

A I've answered that question several times,

Counsellor.

Q You did. Well, frankly, I don't remember the answer.

A Your cohorts are shaking their heads.

Q What's the difference? Did you or did you not?

A I said I don't know what I asked Mr. McGraw about that. I'm not sure whether I asked him specifically. I'm sure I asked him something--gave him some leads as to--I must have told him about the affidavit.

Q Well, this is a self-serving paper; isn't it?

A I understand that.

Q Where an alleged thief may say, "Of course, I own it,"but that's not an original document of ownership.

A Are you arguing with me? You can draw whatever inference--

Q Are you personally familiar with what a billing from a stockholder looks like or confirmation of purchase?

A Of course.

Q You have bought stocks and bonds yourself; haven't you?

MR. BAJO: Mr. Markowitz has gone over this as to confirmations and bills of sale.

MR. MARKOWITZ: Mr. Stolz gave me an explanation that I didn't think was satisfactory.

mation of purchase with respect to title?

MR. BAJO: I object to the form of that question. You can answer it if you want to.

MR. KOMOROFF: Repeat the question.

(The question was read.)

MR. MARKOWITZ: At this time, Mr. Stolz, are you satisfied that you did everything possible as a lawyer to determine whether or not the treasury notes brought in by Mazzochi to the bank were in fact his property?

THE WITNESS: I think I did everything that the situation called for at the time.

MR. MARKOWITZ: And in your judgment as a lawyer, what you did was sufficient?

THE WITNESS: I thought so at the time.

Q Well, with what's happened since then, do you think you made a mistake at that time?

A I don't think I should be asked that question, and I certainly won't answer it.

BY MR. GANS:

Q I would like to ask you one question or so, Mr. Stolz, which I do not think has been asked.

Did Mr. McGraw tell you when he mentioned that they still had $72,000 that the man wanted to withdraw,

anything about the type of deposit that it was or the type of bank account that it was, if you recall?

A I really don't. He must have told me in general terms that this man is known to the bank and he had an account or accounts at the bank.

If he were a total stranger, I probably would have acted differently.

Q Was anything said to you that would indicate that what was left in the Mazzochi account would have been some kind of a special trust account as distinguished from an ordinary debtor-creditor relationship account?

A I don't recall any conversation about that.

BY MR. MARKOWITZ:

Q Did Mr. McGraw tell you that Mazzochi had opened up a personal bank account solely for the purpose of having the proceeds of these treasury notes deposited in that account?

A I don't recall that.

Q Well, did you know it?

A No.

Q If you had known that, would that have changed anything that you subsequently did to determine whether or not he was the true owner?

A That's an iffy question. I don't know how I would

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A No.

Q When did you sever your relations with them as an employee?

A In February of 1968.

Q This was soon after you had testified in the criminal proceedings against Mr. Mazzochi?

A That is correct.

Q At that time, you were based in Queens County in Rego Park?

A No. I was branch manager of the Brooklyn office.

Q Where was that?

A Montague Street, right off Court Street.

Q How long were you in the employ of Royal National Bank?

A From May of 1962 until February of 1968.

Q In what capacity?

A Various capacities.

Q Tell us, please.

A I started out as credit manager and I was a platform assistant, then an officer.

Q In 1966, were you employed at the 326 East 149th Street branch up at the Royal National Bank?

A For part of 1966.

Q Part of the time?

How about August, September and October?

A In August I was employed at 149th Street. In September and October I was already in Queens.

Q In September and October you were in Queens?

A Yes.

Q What is the actual date that you were transferred?

A Right around Labor Day. I was in Queens Labor Day.

Q Was the transfer made at your request?

A Well, it was a promotion.

Q Did you ask for the transfer, though?

A I don't really remember. The job was offered and I accepted it.

Q Were you an officer at the time you were employed at the East 149th Street branch?

A Yes.

Q What was your title?

A Assistant cashier.

Q What were your duties as such?

A Well, I was a commercial loaning officer in addition to normal platform responsibilities, opening accounts, interviewing customers for loans, et cetera.

Q Were part of your duties the sale of securities

brought in by customers of the bonds?

A That would be one of the duties of servicing customers at the bank.

Q That was a courtesy the bank extended to its customers, the sale of securities?

A That is correct.

Q Would that include Government bonds?

A Yes.

Q And also United States Treasury notes?

A Yes.

Q And you are familiar with such securities?

A Yes.

Q For how long a time?

A How long a time what?

Q Were you familiar with the handling and the sale of securities?

A Several years.

Q Would it be prior to 1962 when you started with the bank?

A No, I would say not.

I would say that dating back to my platform experience.

Q That started when?

A Sometime in 1963.

Q But you know what a Government bond looks like?

A Yes.

Q You know the feel of it?

A I know what it looks like.

Q And that would include a Government Treasury note also?

A Yes.

Q Have you recited all of your duties as a loan officer of the bank in 1965 and 1966?

A I didn't hear the question.

(The question was read back.)

A The duties of an officer of the bank, they can encompass a great many aspects of banking, but as an officer, I could or would be expected to do a number of things. Any normal banking function.

Q Would that involve the request of a bank customer or depositor to have the bank sell securities?

A Yes.

Q When did you meet Frank Mazzochi, Jr. for the first time?

A I don't remember.

Q Do you remember the time that he came in and presented certain United States Treasury notes to you with a request that they be sold?

A I remember that he requested bonds being sold. I don't remember if he brought in the bonds themselves at that time.

Q That was August of 1966, am I correct?

A Yes.

Q How much prior to August 1966 in time did you meet Frank Mazzochi, Jr.?

A I can't remember. I know he was known to the bank before that. I knew him before that. I don't know if it was a year, six months or something like that.

Q You don't think it was more than a year, though?

A No.

Q Can you give us the facts and circumstances surrounding the time you met him for the first time.

A For the first time?

Q Yes. The way you met him.

A I don't remember. I don't remember the first time I met him.

Q Did you meet him in the bank?

A I am certain of that.

Q Did you socialize with the man at any time?

A No.

Q Did you ever meet Mazzochi off the bank premises?

A I might have met him on the street in the bank

area, but I never socialized with him.

Q Did you ever have a cup of coffee with him or a drink or meet him at a party or a gathering?

A Never.

Q Did you ever visit the premises of the Mutual Credit Union?

A No.

Q So your acquaintanceship with Mazzochi is centered on the fact that you as a bank officer met him at the bank?

A That is correct.

Q Did you know anything about his personal background?

A Well, I know he had several accounts with the bank.

Q His own personal accounts or accounts of a corporate or partnership nature?

A They were corporate accounts, I think corporate accounts.

Q Were they big accounts?

A I don't think they were very big accounts, no.

Q I just said big, not very big.

Were they accounts with balances in five figures?

A I really wouldn't remember. I may have known

then, but I don't remember now.

Q Were you acquainted with the balances kept on account by Mutual Credit Union at your bank?

A I am sure I was. Again, I don't remember now what they were then, but the Mutual Credit Union was an account in the bank that everybody, all the loan officers were familiar with.

Q When you say "all the loan officers," who do you mean?

A Jack Gutstein, Ed McGraw, myself.

Q Ludlow?

A Ludlow.

Q The four of you?

A Yes.

Q Any others?

A No, there were no other loan officers in that branch at that time.

Q Do you have any idea as to the range of credit the bank extended to the Mutual Credit Union in 1966?

A I would be guessing now.

At that time I would have known. I only guess now. I don't think you want me to guess.

Q Well, if you have a recollection, I think you ought to tell us. I think it's your responsibility to

will have to come back again for the signing--

MR. HART: He doesn't have to come back to the Courthouse to sign his deposition.

MR. KOMOROFF: You mean you would have him sign the testimony like the other bank employees are signing them?

MR. HART: Sure.

MR. KOMOROFF: I didn't know until a minute ago that you were acting as his lawyer.

MR. HART: It's always desirable for the witness to read his testimony to make sure he has said what he intends to say because certainly we all are looking to get the truth, and if something came out not as he intended it, I think that we would all agree he should have an opportunity to correct it as soon as possible.

MR. KOMOROFF: With these reservations. If a new matter is injected into the deposition, I surely would reserve for myself the right to further interrogate the witness.

MR. HART: Surely, if he changes any of his answers, certainly.

BY MR. KOMOROFF:

Q Did you know anybody in Mazzochi's family as of

August 1966?

A No.

Q You never met anybody in his family?

A No.

Q What did you know in August 1966 of Frank Mazzochi's affiliations or business connections?

A Well, I knew that he had several accounts in the bank connected with the contracting business which he was in, and I knew him to be an officer, I think the president of the Mutual Credit Union, which was an account well known to the bank.

Q Did he have any account in the name of Frank Mazzochi, his own personal individual account in August of 1966?

A I think not.

Q Did you in August of 1966--

MR. HART: When you say "in August of 1966," do you mean prior to August of 1966?

MR. KOMOROFF: I would say up until the time he opened up an account which would be August of 1966. I think prior to that day.

MR. HART: I just wanted to make sure that was clear.

Q In August 1966 at the time Mazzochi came in

with these Treasury notes, did you then have an idea as to the balances in the accounts with which Mazzochi had some connection at that time?

A I would think at that time I did.

MR. HART: Since you didn't mention a date and we really haven't established by date the witness' knowledge of Mazzochi's coming in, are we talking now about August 5th?

Q Did Mazzochi come into the bank and have a talk with you about the sale of certain United States Treasure notes?

A Yes.

Q Do you, of your own knowledge, now know the exact date he came in?

A Of my own knowledge, no.

Q Am I correct in saying it was the early part of August 1966?

A Right.

Q Did you know that sometime after August 9th of 1966 and for the rest of that month, Mazzochi was having checks on his own account cashed in amounts of $5,000 or over and withdrawing those cash funds from the bank? Did you know that?

A At this moment, I don't remember it. I might

have known it at the time.

Q You say you might have known it. Did you actually know it at the time?

A Well, I have been shown a check that I initialled so I must have known it at the time, but I don't know if I knew of more than that one.

Q Did you okay the sale of Treasury notes at Mr. Mazzochi's request early in August of 1966?

A Yes.

Q How many requests were made by Mazzochi?

A To the best of my knowledge, one.

Q You only had one talk with him?

A Right.

Q What was that talk?

A The talk was he came in to the bank and he requested that I, meaning the bank, sell for him Treasury notes, that they belonged to his family, and he wanted them sold at market.

He wanted them sold. At market is not really in my memory, which I proceeded to instruct the loan department to do for Mazzochi.

I remember specifically $10,000 worth of notes. Upon rereading my testimony, I see I had authorized an additional sixty at the same time. I hadn't remembered

that.

Q You say on rereading your testimony?

A Yes.

Q Who showed you the testimony and when did you reread it?

A This past week.

Q Where did you get it?

A From my counsel.

Q From Mr. Hart?

A Yes.

Q When did you reread this testimony? Today is Tuesday. Was it last week?

A It was over the weekend.

Q It was loaned to you by Mr. Hart?

A Yes.

Q Did you read the entire testimony of all the witnesses, or did you just read your own testimony?

A Just my own testimony.

MR. KOMOROFF: Off the record.

(Discussion off the record.)

BY MR. KOMOROFF:

Q You say you instructed somebody in the loan department to do what in connection with the sale of the bonds?

A To sell the bonds.

Q Who did you talk to?

A Santoro.

Q Anybody else?

A Not to my recollection.

Q What conversation did you have with Santoro at the time?

A I would have told him to sell bonds for Mazzochi and that would have been it.

I can't remember the conversation. I would have told him to sell the bonds.

Q You mean the processing of the sale of the Treasury notes was handled by the loan department, right?

A Yes.

Q What was your function in the picture with respect to the sale of the Treasury notes?

A Well--

Q Did you have to approve it?

A I had to approve it.

Q Did you have any knowledge at all about Frank Mazzochi or his background at the time that you approved the sale?

A Yes.

Q What knowledge did you have of Frank Mazzochi

outside of what you have already told us?

A No other knowledge.

Q Except that he was affiliated with some of these other accounts?

A Right.

Q Did you ask or discuss with any other bank officials the question of whether you should approve the sale of these bonds?

A Not to my recollection.

Q Let's get this clear, Mr. Kayner.

How many bonds did you approve the sale of, was it $10,000 or $70,000 or $140,000?

A To the best of my recollection, it was ten, but I see from my testimony that it was seventy. It was seventy at one time. On the first and only meeting with Mazzochi, this is what I approved.

Q You say then you definitely approved of the sale of $70,000 in bonds?

A Yes.

Q Did Mazzochi come in four or five days after that and submit another $70,000 in Treasury notes for sale?

A So I have found out, yes.

Q Didn't you approve the sale of that $70,000?

A It's August 9, so I would say it's a subsequent one to the one we were discussing.

Q So that am I correct in saying then that acting for the bank, you approved the sale between August 4 and August 9 of approximately $140,000 of these United States Treasury notes?

A Let me phrase that a little bit differently.

I approved the first seventy. I signed this approval. It doesn't necessarily mean--I might have approved this at the end of the day just approving various things that need an approval from an officer.

In other words, the first sale was authorized and approved by me before it was done. This one I do not remember having authorized or approved before it was done.

I may have, I may not have.

Q You have no recollection?

A No.

Q You say that you read your minutes at the criminal trial over the weekend?

A Yes.

Q Is there anything in the minutes that would refresh your recollection with respect to your approval of this second batch of $70,000 notes?

A Nothing.

Q Do you remember any conversation with Mr. Santoro about your approval of the second batch of notes?

A None.

Q You don't deny you approved it, do you?

A I don't deny my signature is on it.

Q Is it next to the words, "approved by"?

A Yes, it is.

Q In other words, Mr. Santoro in the loan department couldn't sell these notes without first getting the approval of either you or any one of the other three men in the credit department?

A That is not really perfectly so, and he could sell it and get approval after the fact.

Q Did that happen in this case?

A I don't remember.

Q Do you remember any talk with Santoro or anybody else in the loan department about the sale of the second batch of $70,000?

A No, I don't.

Q Did you have any talk with Mr. Mazzochi or anybody in his family concerning the sale of the second batch?

A No.

A That is right.

Q Have you ever seen this paper before?

A I don't remember it specifically.

Q Does the paper refresh your recollection as to any transaction you may have had with Frank Mazzochi on August 4th?

A No. This would have been the authorization given the bank by Mazzochi to sell the one $10,000 note in question.

He may have written it at my desk, he may have written it at Santoro's department. It would have been something he had to write out or give to the bank to do in order to sell the thing.

Q Do you remember the occasion when Mazzochi came in and presented this $10,000 note?

A He never presented a note, to my recollection. He just asked me to sell it and I said I would, and I told Santoro to get the note from Mr. Mazzochi and sell it for him.

I don't know if Mazzochi had the notes when he first came in at that time. He just sat down at the desk and asked me to sell stuff for him, which I said I would.

Q For him or for his family?

A For his family.

Q Did he say who in the family owned these?

A I don't recall.

Q Did you have any such talk?

A No. I discussed who owned the notes.

Q You said before you didn't know any members of his family or did you?

A I don't know any members of his family.

Q Did he say he was selling it for his father or mother?

A It doesn't ring a bell one way or the other. As I recall, it was his family.

Q Who in his family?

A I don't recall.

Q Did you ask him if he had authority to sell this for his family, any of these bonds?

A I would assume I asked him that.

Q What did he say?

A I don't remember. Obviously "yes."

Q What do you mean by that?

A If I had asked the question which I don't remember specifically asking, and he would have said,"No, I have no authority," I would not have sold the bonds for him.

Q Do you remember asking him if he had authority?

A No, I do not remember asking that specific question.

Q Did you make any inquiry from Mazzochi's family to find out if he had authority to sell these bonds or these notes?

A No.

Q Your conversation, that pertained to the $70,000 of notes?

MR. HART: Which seventy?

A The ten and the sixty?

Q Yes.

A Yes.

Q In other words, Mazzochi had told you he was selling $70,000 worth of notes for his family?

A As I testified earlier, my recollection only was to the ten. That was what I had remembered.

When I reread my testimony, apparently he had mentioned sixty additionally. More than that, I can't tell you.

Q Did he present $70,000 in notes at one time or did he make two trips to the bank and present ten and sixty?

A I really do not know because he never presented

any of the notes to me.

Q You never saw the notes?

A Never.

Q You mean he just asked for your authority?

A He asked me to sell a certain amount of notes for his family.

Q You say "a certain amount." Let's be specific. Was it $70,000 on the first batch?

A I just told you, I haven't recalled seventy. Apparently my recollection was faulty and it was seventy. Whatever way you want me to phrase it, he asked me to sell a certain amount for him the first day, which I agreed to do, and I told him to take them to Santoro.

I told Santoro he would be getting them, and that was the last contact I had with Mazzochi personally.

Q Did you have any talk with Mazzochi on August 4th or 5th, 1966 as to why he brought these Treasury notes in to your bank as opposed to his going to a brokerage house to sell these notes?

A I may have.

Q Do you have any better recollection than that?

A I do not.

Q Did you ask Mazzochi to present to you some certificate evidencing ownership by his family of these

Treasury notes?

A Not to my recollection.

Q Or some certificate which would indicate that he had an interest in these Treasury notes?

A Not to my recollection.

Q Did you make any inquiries from Mazzochi--

MR. HART: I don't mean to interrupt. Your last statement when you said he didn't make those inquiries, he said he doesn't remember whether he made those inquiries.

MR. KOMOROFF: It's my recollection that he said before he did not make any inquiries.

MR. HART: Would you reask the question?

BY MR. KOMOROFF:

Q Did you make any inquiries from Mazzochi on August 4th or 5th, 1966, concerning proof of ownership by Mazzochi or by somebody in his family of any of the $70,000 in Treasury notes?

A Not to my recollection.

Q Did you make a bank record of this transaction with Mazzochi on August 4th and 5th of 1966, some writing, which would be filed with the bank, which would show the nature of this transaction?

A I would tend to doubt it, but I don't remember.

Q Was it a bank function for you to do that?

Were you supposed to do that when a customer comes in to make such a writing or notation?

A If we were going to sell the bonds for him, there would be writings in the loan department as to what we sold, and if we didn't sell it for him, there wouldn't be any record.

Q Were you selling these bonds, this $70,000 batch for Frank Mazzochi, personally?

A That was his request.

Q Personally or for his family?

A He said that the bonds were owned by his family and he wanted to sell them.

Now, his family had no accounts with us, so we were going to sell it for him. He brought in the bonds, not physically, but he wanted the bonds sold for his family.

Q Did you make any inquiries about who his family were or for which part of his family he was selling these bonds?

A No. Again, I don't remember if I specifically asked him who in his family we were selling it for.

Q Do you know where his family lived?

A No.

Q Did you have any idea where his family lived?

A I don't remember if I had any idea.

Q Did you ask Santoro to check to this?

A About his family?

Q Yes.

A I doubt it.

Q Did you ask Santoro to check into the ownership of these United States Treasury notes for his family?

A I don't recall asking Santoro to do anything except sell the bonds.

Q Are you familiarwith a billing from a stock brokerage house on the sale of securities?

Do you know what it looks like?

A You mean a confirmation slip?

Q A billing first.

Are you familiar with a confirmation slip from a stock brokerage house with respect to the sale of securities, any kind of securities?

A Yes.

Q How long have you been familiar with that?

A Several years.

Q Up to 1966?

A Prior to 1966.

Q So in August 1966 you knew what that looked like?

A Yes.

Q Did you ask Frank Mazzochi to produce such a billing with respect to the alleged ownership of these United States Treasury notes either by him or by his family?

A I don't recall if I asked him for it.

Q You don't recall?

A No.

Q Did you testify before the Supreme Court at the Mazzochi trial that you had made such a request?

A I don't remember that I testified to that.

Q You read the minutes recently.

Do the minutes indicate that you made such a request?

A I don't recall reading that in the minutes.

Q So the probabilities are that you did not make such a request?

MR. HART: That would be speculation, Mr. Komoroff.

MR. BLEIWAS: Off the record.

(Discussion off the record.)

MR. KOMOROFF: What was the last

question?

(The last question was read back.)

BY MR. KOMOROFF:

Q Can you tell us if you did have such a talk with Frank Mazzochi on August 4th or 5th or even August 9th of 1966 where you asked for some evidence of ownership of these United States Treasury notes in the Mazzochi family?

A I don't recall having asked for it on August 4th or 5th.

I didn't talk to Mazzochi after that date.

Q Did you instruct anybody in the bank on August 4th or 5th or 9th to inquire into the ownership of Mr. Mazzochi's family of these United States Treasury notes?

A I don't recall.

Q Did you have such a talk with Mr. Santoro?

A I don't recall.

Q Did you have such a talk with Mr. McGraw or any other of the loan officers sitting in the area of the bank where you sat?

A I don't recall discussing it with anybody.

Q Was there any talk that you had with any bank employee at the East 149th Street branch between August 4th and 9th of 1966 that dealt with the question of the

alleged ownership by Mazzochi's family of these United States securities?

A I don't recall.

Q Was that part of your function as a bank employee, to check and inquire into the ownership of securities, or was that something--

A That is a very, very nebulous question based upon judgment and all of that.

Q Why is it nebulous? Was it your job or Santoro's job?

A If my father came in to the bank and told me to sell stock, I certainly wouldn't question him.

If a complete stranger came in, I wouldn't do it. Anything in between becomes very gray.

I just told you, I don't recall having asked him if he had proof of ownership, right. I just told you that. Now, he was known to the bank and he was known to me, and in my judgment, I sold the bonds for him.

Q Was that your sole decision or was that the collective decision of the men in the credit department?

A I would tend to think it was not a collective decision.

Q You yourself handled it?

you want to go to a new area or have something to refresh his recollection.

BY MR. KOMOROFF:

Q The name R. Santoro appears on Exhibit 50?

A Yes.

Q Do you remember if that name was on there before you signed this exhibit?

A I don't remember it. It would be proper, whoever prepares that document or advice, would type on their name or sign their name as having prepared it or taken care of the transaction.

They would then bring it to an officer for approval. Possibly before the transaction, possibly after the transaction. They may have gotten a verbal approval beforehand.

Q You mean from you or some other officer?

A It could have been from anybody.

I am talking in general. On this particular transaction, I don't recall whether I verbally approved it before or if it was just done and it was approved after the fact.

Q You don't deny your approval of it?

A I don't deny that I signed where it says, "approved by."

Q Did you make any inquiry from Mazzochi as to his authority to sell these securities for his family?

A You asked me that question before.

I told you, I don't remember asking him that specific question.

Q Did you make any inquiry from Mazzochi as to his authority to use the proceeds released on the sale of these Treasury securities?

A They would go together, those things, wouldn't they?

Q What would go together?

A If he has the authority to sell the bonds for his family, he has to disburse the proceeds to them.

If I ask you to sell my car for me, you are going to have the proceeds and let's assume you are going to turn them back to me, or you will have the proceeds to dispose of.

There is no way I can have them if you are selling it for me.

Q In other words, you assumed Mazzochi had the authority to use the proceeds, because you assumed he had the authority to sell these Treasury notes?

A I am not saying I assumed he had the authority. I don't recall whether I asked if he had the authority or

not.

I don't want to recollect things I don't recollect. I don't want to guess and say I know he said--you asked me before is it possible he said he didn't have authority, but that doesn't make sense.

If he didn't have authority, we wouldn't have sold it for him.

Q You say he did have authority to sell for his family?

A I don't know if I asked him that specific question. I don't remember.

Q What is your recollection as to Mazzochi's authority to sell these bonds for his family?

A I have no recollection. I recall him coming in to see--we spoke about that they were owned by his family.

Q You didn't ask any questions in furtherance of that statement, then?

A I don't remember.

Can I talk off the record?

Q No. You are a witness here and you have to tell us what happened.

A I don't want to make assumptions.

Q I want you to tell us, Mr. Kayner, what happened

MR. KOMOROFF: I don't know what you are referring to, but this was the copy I got from the court reporter which shows the proceeding on January 15, 1968.

MR. HART: Will you look, please, at page 211 of that volume?

MR. KOMOROFF: That is Exhibit 24 marked on September 17, 1969.

BY MR. KOMOROFF:

Q Was that question asked of you and did you make that answer on January 15, 1968?

A I don't recall. You are reading my testimony.

Q Do you want me to show you the testimony?

A I have no doubt you are reading it. I don't know how you are asking the question.

I recall the specific question, no, I don't recall the specific question.

The question and the answer would be correct.

Q Was this question asked of you by Mr. Rotker?

"Q What did he say?

"A He stated they were his family's bonds and he wanted to sell them for his family."

A Yes.

Q Was the next question asked of you by Mr.

Rotker:

"What did you do?

"A Well, I accepted the bonds and we subsequently sold them for him."

Was that the answer you gave that day?

A Yes.

Q In the Supreme Court in the Bronx?

A Yes.

Q Was this question asked by Mr. Rotker:

"So, in other words, he brought in $70,000 worth of bonds on August 5, 1966; is that correct?

"A That is correct."

Did you make that answer to the question I have just read?

A I don't recall.

Q Do you want to see this page of testimony?

A I am sure if you are reading it, I made that answer.

MR. HART: Will you tell us what page you are reading from?

Q You say you read this testimony just two days ago?

A I looked through the testimony.

Q Have I misread any part of this testimony?

Havermyer?

A No. I probab ly could find it. I don't know where it is.

Q Did you have any idea what work his father did or what field his father was in?

A No.

Q Did you have any idea as to his father's wealth or his mother's wealth?

A No.

Q You have no idea?

A No.

Q Did Mr. Mazzochi then indicate that in mentioning his family, he was referring to brothers or sisters or uncles or aunts?

A I don't recall if he specified whom in his family he was selling the bonds for.

Q He didn't say anything like that?

A I don't recall. He may have. I don't recall.

Q Do you have any idea as to the kind of neighborhood 247 S. Third Street, Brooklyn, is in?

Do you have any such knowledge?

A Knowledge, no.

Q Any idea about that neighborhood?

A Well, if you tell me it's Williamsburg, I know

Plaintiff's Exhibits 51-A, B, C and D as of this date, for identification.)

BY MR. KOMOROFF:

Q Did the question of Mazzochi's authority to use the proceeds on the sale of these $70,000 in bonds enter into your mind?

A No.

Q You just assumed he had the authority?

MR. HART: I am sorry. I don't understand that question.

MR. KOMOROFF: I think he said something like that earlier.

MR. HART: I don't understand the question.

(The question was read back.)

MR. HART: Read the question previous to that.

(The question was read back.)

A We discussed this before.

Q What is your answer?

A Yes.

MR. HART: You may explain.

A The answer is, if he has authority to sell for his family, he has to have authority to use the proceeds. The proceeds are going to be turned over to him.

Q Was there any talk between you and Mazzochi?

A Not that I recall. I don't recall any talk about use of proceeds.

Q In other words, you took it for granted that Mazzochi had the authority to use the proceeds?

MR. HART: He said he doesn't recall any conversation about that.

MR. KOMOROFF: But he said he assumes he had authority. In other words, he took it for granted that Mazzochi had the right--

MR. HART: Don't say "in other words," if you want to ask him a question like that, you can ask him.

Q I will start from the beginning.

What was your basis for believing that Mazzochi had authority to sell these $70,000 in United States securities, that is just authority to sell?

A My conversation with him originally was that he was selling them for his family. That was taken as his authority.

Q Just his word?

A Right.

Q You didn't do anything to check into that question?

A I don't recall any other conversation.

MR. MARKOWITZ: That wasn't the question.

Read the question again.

(The question was read back.)

A I don't recall if I asked him further questions about that.

Q You don't remember?

A I don't remember.

Q But you took it for granted that he had authority to sell?

A Yes. When you say I took it for granted. On the basis of our conversation, I assumed that he had the authority. I deduced he had the authority. I made the judgment he had the authority.

Q What did you use as a basis for believing that he had authority to use these proceeds, authority from his family to use these proceeds?

A If we are selling the bonds for him--

Q You weren't selling the bonds for him.

A Yes, we were selling the bonds for him.

Q You were selling the bonds for his family.

A He was selling them for his family. We were selling them for him.

Q There is no difference in your mind as to who

you were selling the bonds for?

Didn't you say the bonds belonged to his family?

A That is what he said. He was selling them for his family. He was selling them for his family and we had the relationship with Mazzochi, not his family.

Therefore, the bonds were going to be sold for Mazzochi. What he did with the proceeds, that is obviously outside of my scope of knowledge.

Q You didn't think it was necessary to find out from his family if he had the authority to use the proceeds on these securities?

A No.

Q So you made no inquiry and you asked nobody at the bank to make an inquiry on that question?

A I can't recall having asked anybody to have made an inquiry as to that.

Q Did you have anything to do with the opening of Mazzochi's account in his own name, to accept the proceeds?

A It's customary procedure in a bank to credit the proceeds from a sale to an account. It would have to be to a personal account.

I don't recall if I told him that he had to have an account so that we could credit it to

or Mr. Santoro would have asked what account he wanted credited, then they decided to open an account, but there would have had to be an account.

Q Would you in any way, as a bank employee, participate in the matter of the opening up of the account in Frank Mazzochi's name to accept the proceeds on the sale of these Treasury notes?

A To the best of my recollection, no.

MR. KOMOROFF: Will you give me that exhibit, please, that has to do with the opening of the account? I think his initials are on it.

MR. HART: What exhibit are you talking about?

THE WITNESS: The interview sheet.

MR. HART: Exhibit JJ in the Interrogatories. It's Plaintiff's Exhibit 23 for identification.

BY MR. KOMOROFF:

Q Mr. Kayner, I show you Exhibit 23, and ask you if you have ever seen the original of this paper.

A My initial is on the bottom.

Q So you have seen that paper?

A Right.

Q What is it?

A An interview sheet for new account .

Q Whose new account?

A Frank Mazzochi, Jr.

Q Does that mean he didn't have any account in his own name prior to that date?

A It would be correct.

Q Did you have any transactions with Frank Mazzochi of the same scope and magnitude as this $70,000 sale prior to August 4, 1966?

A No.

Q Did you have any transactions of the same scope and magnitude as this $70,000 sale with any account with which Frank Mazzochi was affiliated prior to August 4, 1966?

A No.

Q Mr. Kayner, what is the purpose of your initials having been made on that exhibit?

A This interview sheet was passed around to all the officers in the branch for their initials so that they would be acquainted in some manner with all the accounts that were opened in the branch.

In other words, if there was a name that they recognized from something or other, they would have a chance to call it to the officer that introduced the

account?

Q Did you discuss the opening of the account with Mr. McGraw?

A I don't recall.

Q Does his name appear on the interview sheet?

A Yes, he is the introducing officer.

Q What does that mean?

A Well, either he is the officer that introduced the account to the bank or he is the officer that is most closely connected with affiliated accounts in the bank, and he is given credit for this account.

Q Did you read that interview sheet before you put your initials on it?

A I am sure I read it, yes.

Q Would your initials have been put on it just about the time that the account was opened?

A No, it would have to be put on after the account was opened.

Q I mean immediately after the account was opened; is that correct?

A Sometime after the account was opened.

Q You mean a matter of days?

A It might be days, it might be a week.

Q But a short time thereafter?

A Yes.

Q Did you note everything that was on that page before you signed it?

A I would guess that I noted everything that was on the page.

Q Did you realize at the time you signed your initials that the proceeds of the Treasury notes were going into Mazzochi's personal account?

A I am sure that I would have noticed that.

Q Did you discuss this question with any of the bank officers?

MR. HART: What question?

MR. KOMOROFF: The question of the proceeds on the sale of these Treasury notes going into Mazzochi's personal account.

A I don't recall having discussed it.

Q Did Mazzochi at any time request that the proceeds on these bonds go into the Mutual Credit Union account or some other account?

A Would you repeat that question?

(The question was read back.)

A I don't want to recall something that I don't recall.

I don't recall. It never entered into it. I

can't ever recall their names entering into it.

Q Did Mazzochi personally have a line of credit at the bank as of August 4, 1966?

A I don't recall. Personally, you said?

Q Yes.

A He didn't have an account personally.

Q Did he have any line of credit with the bank?

A A line of credit--in the first place, there was a policy of Royal not to give lines of credit. It was strictly on an offering basis, all loans.

He couldn't have a line of credit personally because he didn't have a personal account. Mutual Credit Union, I am quite sure was a borrowing account. It wouldn't be a line of credit for Mazzochi.

Q How much of a line of credit did Mutual Credit Union have in August of 1966?

A I don't recall that.

Q Was it in three figures, four figures?

A I don't recall, but it wouldn't be in three figures.

Q Would it be in four figures?

A I don't know if it would be in four figures or five figures.

Q Did you state, and I am looking at page 69 of

the criminal proceeding minutes.

Were you asked this question by Mr. Rotker:

"Can you tell us?

"I would say they averaged in the low four figures. It was $1,000, $2,000, in that area."

Do you remember making that answer to the question Mr. Rotker asked with respect to the average monthly balances for the Mutual Credit Union?

MR. HART: Did you read the full question?

MR. KOMOROFF: Page 68, the bottom of the page, the question was:

"Were you acquainted with the balances kept on account by the Mutual Credit Union?

"A Yes, I was."

Q Is that the answer you gave to Mr. Rotker?

A Yes.

Q Did you also make this answer to the following question asked by Mr. Rotker?

"Q Can you tell us, sir?

"A I would say that they average in the low four figures. It would be $1,000, $2,000, in that area."

Did you make that answer?

A Yes.

Q That pertained to the Mutual Credit Union?

A Yes.

Q As of August 1966?

A Yes.

Q Did you know in August of 1966 if Mazzochi was married or single?

A I don't recall.

Q How old did he look to you in August of 1966?

A In his thirties, early thirties.

Q What did he weigh?

A What did he weigh?

Q About. Was he a husky fellow or slim?

A He was short, but husky. I would guess 160.

Q Did you have any familiarity with the Finnog account in August of 1966?

A Finnog?

Q Yes.

A I knew that it was an affiliated account of Mazzochi.

Q An affiliated account?

You mean it was his personal account?

A From what I can see here, it says limited, so it's a corporate account. It wouldn't be a personal account.

Q I mean he could sign on it?

A Yes.

Q Did you know in August of 1966 what the average balances were in this Finnog account?

A I may have.

Q Do you talk Yiddish?

A Very, very little.

Q Do you understand Yiddish?

A Very little.

Q Do you know what the word "gonif" means?

A Yes.

Q What does it mean?

A Thief.

Q Reading the word Finnog backwards, what would it mean?

MR. HART: Objection. Don't answer that question. It's ridiculous.

MR. KOMOROFF: To you, not to me.

MR. HART: If you want to read it backwards, you may.

MR. KOMOROFF: I am asking him to read it backwards. There is much about the case that I know, but I am not testifying. This man is testifying. He is answering questions.

Q For how long?

A From the time I got out of college until the time I went to Royal.

Q What were your duties there?

A I started in the credit department and I became the manager of the accounts receivable finance department and I left there and went to Royal as credit manager.

Q These accounts with which Mazzochi had some connection as of August 1966, were these substantial accounts where the average balances were in large four figures or five figures or were they small accounts?

MR. HART: Can we identify the accounts?

MR. MARKOWITZ: Unit Home Repair.

MR. HART: I haven't heard that name mentioned here today. Let's ask him whether he knows about that account.

BY MR. KOMOROFF:

Q Unit Home Repairs, was that a big account?

A I don't recall if it was a big account. I don't recall if Mazzochi's accounts were big, medium or small.

Q You have no recollection?

A No. I don't recall, really.

Q Were there available to you on August 4, 1966

the daily balance sheets so you at a moment could glance at a listing and see how much was on deposit on any of these affiliated accounts?

A Yes.

Q And there was also available to you average balance cards which would also indicate to you what the average balance was; right?

A Yes.

Q Did you know on August 4, 1966, that this Unit Repair account had been closed out prior thereto?

A I may have known at the time.

MR. KOMOROFF: Mr. Hart, produce, please, the exhibit that was marked earlier, it's Exhibit C of your responses. It's the interview sheet on Unit Home Repairs.

MR. HART: I hand to you Plaintiff's Exhibit 31 for identification.

BY MR. KOMOROFF:

Q Tell me, Mr. Kayner, if your initials are on Exhibit 31.

A Yes.

Q Is that the interview sheet of which account?

A Unit Home Repairs, Inc.

Q You see some lettering on the upper left hand

corner, don't you?

A Yes.

Q What are those words?

A "Caution on uncollected."

Q Are they in red ink?

A Yes.

Q Did you write them?

A It does not look like my handwriting.

Q Who would have done that if you didn't, somebody in the credit department?

A Possibly.

Q Did you have this knowledge on August 4, 1966?

MR. HART: What knowledge?

Q The knowledge that those words were on that sheet that you hold in your hands.

A I do not recall.

Q Did you check on August 4th or August 5th, 1966 with respect to the status of any one of these three or four affiliated accounts that Mazzochi was indirectly tied up with?

A I do not recall if I checked balances or anything else on that particular day.

MR. KOMOROFF: I am referring to Exhibit CC, Mr. Hart, and would you produce the exhibit that

was in evidence?

MR. HART: I will have to look to see what Exhibit CC is.

Mr. Komoroff, I hand you Plaintiff's Exhibit 36 for identification.

BY MR. KOMOROFF:

Q Mr. Kayner, I show you Exhibit 36, and ask you if your initials appear on this interview sheet.

A Yes, sir.

Q You read the interview sheet at the time that your initials were put thereon?

A Yes.

Q What account does this interview sheet refer to?

A D. Gilbert General Contractors.

Q What was the account opened up with?

A $500.

Q In cash?

A Yes.

Q When?

A October 19, 1965.

MR. KOMOROFF: Would you produce Finnog, the interview sheet?

MR. MARKOWITZ: Was that an affiliated account of Mazzochi?

THE WITNESS: Yes.

Q Was that available to you on August 4, 1966?

A Yes.

Q Were the daily balance sheets on this account andall other affiliated Mazzochi accounts available to you on August 4, 1966?

A Yes.

Q Did you look at those accounts?

A I don't recall having looked at them on August 4th, 1966.

Q Or on the 5th of August?

A I don't recall.

Q Did you look at the daily balance sheets on the 4th or the 5th of 1966?

A I don't recall.

MR. HART: Mr. Komoroff, I hand you Plaintiff's Exhibit 39 for identification at your request.

Q Mr. Kayner, are your initials on Exhibit 39?

A Yes.

Q I assume your initials were put on just about the time the account was opened or as soon thereafter?

A Yes.

Q What amount was that account opened up with?

A A thousand five dollars.

Q Was that by check or by cash?

A Cash.

Q When was the account opened?

A September 24, 1965.

MR. MARKOWITZ: Was that an affiliated account with which Mazzochi was affiliated?

THE WITNESS: Yes.

MR. MARKOWITZ: Does Mazzochi's address appear on that account or that sheet?

THE WITNESS: No.

MR. MARKOWITZ: But you knew it was an affiliated account of Mazzochi?

THE WITNESS: It shows it's an affiliated account of the other accounts.

MR. MARKOWITZ: D. Gilbert Contractors and Unit Home Repairs?

THE WITNESS: Yes.

MR. MARKOWITZ: Who opened this account?

THE WITNESS: Dellatte.

BY MR. KOMOROFF:

Q Tell me, when Mazzochi had gotten your permission or approval for the sale of the bonds of his family, did you give any direction to Santoro in the loan department

with respect to the sale of the bonds?

A Well, I would have authorized him to sell the bonds.

Q Did you authorize Santoro to sell the bonds for Mazzochi's family?

A No, I wouldn't have phrased it that way.

Q How would you have phrased it?

A I would have told him to sell the bonds for Mazzochi.

Q For Mazzochi?

A Whoever was delivering the bonds to us. In this case, Mazzochi.

Q You told us a little earlier that you understood Mazzochi had asked you to sell the Treasury notes because they belonged to his family.

A That is right, but for him.

Q What is this?

A As I explained to you, he was asking us to sell for him bonds of his family.

Q To sell for him the bonds of his family?

A Yes.

Q Did you ask Mazzochi for a written authorization from the owners of the bonds to show that he had the authority to sell?

A I don't recall asking him.

Q Did you ask Mazzochi for something in writing to show that he had the authority to use the proceeds on the sale of these bonds?

A I don't recall asking him for that either.

He would have had to give an authorization in writing to sell the bonds.

MR. KOMOROFF: Read that to me.

(The answer was read back.)

Q What do you mean by the last sentence?

A This is an authority to sell the bond.

MR. HART: The witness is handing up Plaintiff's Exhibit 51.

Q But you told us the bonds were being sold for Mazzochi's family. You don't mean the paper you just held up, Exhibit 51, is an authorization from Mazzochi's family. You didn't mean it that way, did you?

A No.

Q This is a paper signed by Mazzochi, correct?

A Correct.

Q When you gave the instructions to Santoro, was it still in your mind that the bonds belonged to Mazzochi's family?

A I can't recall what was in my mind at the time.

Q Did you ever have any prior situations with the

bank where a son or a relative came in and said, "I am selling the bonds for my family," then the proceeds went into the individual account of the man who said he was selling for the family?

A I can't recall.

Q Had you had any prior experiences where people came in and asked you to sell Government securities or certificates, selling them for others, as agents for others, or where they came in and said, "I would like to sell these for others"?

A I can't recall it.

Q Did the bank have any specific procedure with respect to where the proceeds on the sale of these Treasure notes would go?

Did they have to go into the account of the individual that presented the notes for sale?

A I would think it would be possible to credit a different account other than for whom we sold it for, if you had the proper written authority, et cetera.

Q But you didn't ask Mazzochi for written authority, did you, some evidence of written authority from the true owner?

A You missed what I said.

You said do the bonds have to be credited to

the person who gave you the bonds for sale, and I said it would be possible if the person who gave you the bonds for sale gave you written authority to credit it to a partnership account or a corporate account or something like that.

Q It could happen, you mean?

A Yes.

Q In your experience, have you had any similar situations?

A I can't recall any specific instances.

Q Tell me, did you call up the Federal Reserve downtown New York on Maiden Lane, I think it is, to check the ownership of these Treasury notes that Mazzochi had brought in for sale?

A No.

Q Whose job would it be to do that?

A The loan department's job.

Q That would be Mr. Santoro?

A Right.

Q Did he have any discussion with you about the fact that he had called up the Federal Reserve Bank downtown New York and they had said that the notes were not listed among the stolen?

A I don't recall his telling me anything like that.

for me to recall that. I don't know if I knew specifically.

I doubt if I knew specifically. I might have had a general idea at the time.

Q What was that general idea?

A I don't recall.

Q Was it the image of a responsible, solid, financial citizen, a man with substantial financial worth?

A Substantial financial worth, that is a nebulous question.

When you say "substantial, I wouldn't have considered him a millionaire at the time, I am sure of that, or a man worth hundreds of thousands of dollars, but I'd have no idea now as to what I knew then.

Q Did you have a chance on August 4th or 5th to embellish the information that you had on Frank Mazzochi?

You had bank records available to you, didn't you?

A I had bank records available.

Q As to his personal worth as of August 4th or 5th, 1966, did you have a chance with the records that were available at the bank for you to check into the extent of Mazzochi's personal worth?

You could have done it?

A The records were available, yes.

Q But you didn't do it?

MR. HART: What was the question, was this related to his personal wealth or his corporate relationships?

MR. MARKOWITZ: Will you please read Mr. Kayner's answer?

(The answer was read back.)

A The records as to his personal worth, I don't know if there are any records in the bank as to his personal worth.

The records as to his affiliated accounts were available. They don't necessarily mean anything. A man could have a very small checking account and be worth millions of dollars or vice-versa.

He could have a corporate account worth a fortune, and own one percent of the company or no percent. He might be an officer of the company or not have an interest.

MR. MARKOWITZ: The corporate accounts, the other accounts, the affiliated accounts were just small accounts?

THE WITNESS: I don't recall.

MR. MARKOWITZ: You saw the interview

sheets?

THE WITNESS: The interview sheet only indicates the opening deposit. It doesn't indicate the average balance. One of these sheets is a year old.

MR. MARKOWITZ: You could have looked at the average balances as recorded in the cards or ledgers of the bank?

THE WITNESS: Yes.

MR. MARKOWITZ: You did none of these things?

THE WITNESS: I don't recall having done it.

MR. MARKOWITZ: When you say you don't recall, is it that you did not do it, or you have no recollection?

THE WITNESS: I have no recollection.

BY MR. KOMOROFF:

Q Did you have any knowledge at that time despite his affiliated accounts that he, Frank Mazzochi, Jr., was a man of substantial wealth, one hundred thousand dollars or so, or less?

A I have no recollection.

MR. MARKOWITZ: This was a rather

substantial new account?

THE WITNESS: I don't get you.

MR. MARKOWITZ: This was a rather substantial new account, was it not?

THE WITNESS: You are referring to Mazzochi's personal account?

MR. MARKOWITZ: Yes.

THE WITNESS: Yes. The opening deposit would be a substantial amount, yes.

MR. MARKOWITZ: Did you discuss with Mr. McGraw the proceeds from which the monies came to open this account?

THE WITNESS: I don't recall discussing it.

MR. MARKOWITZ: Did you talk to Mr. McGraw at any time during all this period about these Treasury notes being deposited in Frank Mazzochi's personl account?

THE WITNESS: I don't recall.

MR. MARKOWITZ: When you say you don't recall, is it because you have no present recollection or is it possible that you did not do it, you didn't do any of these things?

THE WITNESS: I have no present recollection.

on August 4th or 5th, 1966 in connection with his tender of the Treasury notes for sale?

A I told you before I can't recall whether he had been asked for these.

Q Did you tell Mr. Santoro to ask Mr. Mazzochi to produce confirmation tickets to indicate that he or his family had title to these Treasury notes that he had presented for sale?

A I can't recall if I asked Mr. Santoro to get any information from Mazzochi other than the certificates themselves.

Q Do you know, Mr. Kayner, if the Royal Bank had made any loans to any of these affiliated accounts prior to August 4 of 1966?

A Do I know if the Royal had made any loans to any of these accounts?

Q These affiliated accounts prior to August 4, 1966.

A The Royal had made loans to Mutual Credit Union.

Q Yes.

A I would be reasonably certain of that.

Q Any other accounts?

A I can't recall whether there were loans to any of the other accounts.

Q Did any other bank official participate in the matter of the approval of these Treasure notes between the period of August 4 and August 9, 1966?

A Not to my knowledge.

MR. MARKOWITZ: Did you ask any other bank official to engage in a discussion with you about approving the sale of these Treasury notes to Frank Mazzochi, Jr.?

THE WITNESS: It would not have been required. I don't recall having asked anyone.

MR. MARKOWITZ: You said that you okayed one of the checks that Mazzochi drew.

I show you Exhibits 6 to 16 inclusive, and ask you to tell me which of the checks you approved or okayed.

THE WITNESS: This one.

MR. HART: Let the record indicate the witness has identified Plaintiff's Exhibit 7.

THE WITNESS: That is the only one.

MR. MARKOWITZ: You are referring to check dated 8/8/66, payable to cash for $25,000?

THE WITNESS: Right.

MR. MARKOWITZ: Is that the first one that was cashed? Will you check the exhibits with the

witness it's 8/8? That is the first time money would have been going into his account?

MR. MARKOWITZ: Who asked you to approve that check?

THE WITNESS: I don't know.

MR. MARKOWITZ: Who would it have been, Mrs. Moscatello?

THE WITNESS: Yes. She would have given it to a guard and bring to me. I don't recall Mazzochi having done it.

MR. KOMOROFF: We will suspend for an hour, Gentlemen.

(Whereupon, at 12:30 p.m., a luncheon recess was taken.)

There is another copy that has his initials on it.

MR. KOMOROFF: The same day?

MR. HART: Yes.

MR. MARKOWITZ: That should have been marked instead of this one.

MR. HART: You may want to mark all these copies.

MR. KOMOROFF: In view of your presentation, Mr. Hart, of the auditor's copy of the credit memo of sale which bears the initials of Mr. McGraw, I would like to mark this as Exhibit 50-E.

(Auditor's copy of credit memo of sale bearing initials of Mr. McGraw, marked Plaintiff's Exhibit 50-E for identification, as of this date.)

BY MR. KOMOROFF:

Q When you testified in the criminal proceeding against Mazzochi, and I am reading from the minutes, page 129, were you asked this question and did you make the answer that I will now read:

"Q Is this a large part of the business of Royal National Bank, selling bonds and securities for its customers?

"A It's not."

You wouldn't change that answer any way now, would you?

A No.

Q So these sales of securities is really an accommodation for bank customers?

A Correct.

Q Does the bank act as an agent for the customers in effecting these sales?

A That is correct.

Q Tell me, did you have any dealings with Frank Mazzochi face to face concerning the affiliated accounts prior to August 4, 1966?

A I can't remember having any dealings.

Q I mean when he sat at your desk?

A I can't remember any.

Q Did you know on August 4, 1966 that Frank Mazzochi himself had invested money in any of these affiliated accounts?

A No, I did not.

Q Did you know if on August 4, 1966, if Frank Mazzochi's family had invested monies in any of these affiliated accounts?

A I am sure I did not know.

Q Did you deem it prudent to ask Mazzochi on

August 4th and 5th of 1966 to produce some document of title showing the source of his family's ownership of these Treasury securities?

A I do not remember if it was discussed with him.

Q As of now, on reflection, do you deem it was imprudent of you to ask for a document of title?

MR. HART: I am sorry. I won't let the witness answer that question. I object.

Q In other words, you did not ask Mazzochi for any papers or writings or documents which bore upon the origin of the title of his family in these bonds?

A I don't remember if I requested him to produce anything or we discussed anything. I don't remember.

Q Do you remember if you discussed with Mazzochi on August 4th or 5th of 1966, the question of the source of the monies that were used to obtain these Treasury notes that he was presenting for sale?

A Again, I don't remember if that came into it.

Q Outside of the $25,000 check that you approved for cashing, were you involved in any other way with respect to the release of the proceeds of these securities from the Mazzochi personal account?

A I can't remember whether I approved any other checks.

A No, sir.

MR. MARKOWITZ: We have here on Exhibits 50-A, B, C, a total of close to $140,000 in Treasury notes that you approved for sale from Mazzochi's account.

Didn't that seem like a large amount for a young man to bring in to sell?

THE WITNESS: You asked two questions.

MR. MARKOWITZ: Read the question to him.

(The question was read back.)

THE WITNESS: Let me answer one thing first. I told you before that I do not recollect approving the second $70,000. Establishing that, $70,000 that I approved for him is a relative amount, a relative term. It did not seem large to me at the time.

MR. MARKOWITZ: Did it seem as large to you at the time with respect to the accounts to which Mazzochi was connected, the Mutual Credit account, the Unit Repair, D. Gilbert Contractors, and the Finnog account?

THE WITNESS: Using hindsight now, apparently it did not seem large to me.

at that time respecting that customer as to whether that customer was the rightful owner of the bond you were going--notes you were going to sell?

THE WITNESS: They may have been stocks. I don't recall.

MR. MARKOWITZ: You don't know whether they were stocks, bonds or Treasury notes?

THE WITNESS: You are asking me to think back on things that are general. I do not really recall.

BY MR. KOMOROFF:

Q Was it an unusual transaction for a man like Mazzochi to come in and present within four days, $140,000 in Treasury notes and ask the bank to sell them?

A That is a very hard question. You say was it unusual. We had never done it for Mazzochi before.

Q Did you have a similar transaction for other customers?

A I would be guessing to tell you that I am sure other officers of the bank had sold this kind of amounts for other people and I sold other amounts for other people.

Q We are dealing now with your own experience, not other officers.

You said a little earlier this sale involved only your judgment, not the judgment of other officers, the approval, I mean, for this sale, involved only your judgment.

I want to know if possible if this was an unordinary transaction or if this kind of transaction happened every day at your 149th Street branch.

A I couldn't tell you the frequency of these kinds of transactions, but I would not deem it unusual to be asked to sell stocks or bonds or notes for a customer.

Q In this amount?

A Amounts are very relative.

Q Do you want to say something?

A I am just saying amounts are relative.

Q You didn't think for a man situated like Mazzochi, that $140,000 to be sold was not of an unusual nature, something that should perk up your attention?

A I can't give you an answer to that because I don't know what I was thinking at the time.

Q You had never prior to August 4th and 5th of 1969 sold any securities whatever for Frank Mazzochi or his family, had you?

A No. I myself, no.

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to form, are reserved to the time of trial.

IT IS FURTHER STIPULATED AND AGREED that counsel for plaintiff shall furnish a copy of the within deposition to counsel for defendant Royal National Bank of New York, without cost.

oOo

R U D O L P H J. S A N T O R O, called as a witness by plaintiff, being first duly sworn by the Notary Public (Richard Kaufman), stated his residence as 132-25 Maple Avenue, Flushing, New York, and testified as follows:

EXAMINATION BY MR. KOMOROFF:

Q Mr. Santoro, what is your business or occupation?

A I am assistant cashier with the Royal National Bank of New York.

Q Where are you based?

A 48th Street and Sixth Avenue, New York City.

Q Were you with the Bronx branch at East 149th Street in 1966 or 1967?

A I was with them in 1966. I believe I left to go to the main office in June of 1967.

A Yes, I went into the Loan Department.

Q At the East 149th Street branch?

A Yes.

Q What title do you have now with the Royal Bank?

A Assistant cashier.

Q Is that officer status?

A Yes, sir.

Q Did you have officer status when you were working at East 149th Street?

A No.

Q What was your title there?

A I was a loan clerk.

Q Who was your immediate superior?

A Mr. Ted Landberg was the head of the Loan Department at that time.

Q Did you work at the East 149th Street branch in August and September of 1966?

A Yes, I did.

Q You weren't the head of the Loan Department at that time, were you, at that branch?

A No, I wasn't.

Q What were your duties or functions at that time at that branch?

A At that time Mr. Landberg, I believe, was out ill

and I was the acting Loan Department head and it consisted of running the Loan Department overall, the handling of discounting of notes, customers' collateral, securities, unsecured loans, secured loans.

Just the basic handling of the clerical work on them.

Q You handled the sale and transfer of stock and securities?

A Right.

Q Including government bills?

A Including government bills.

Q Tell me, did you have any experience in this type of work before you became affiliated with the Royal Bank?

A Yes. When I was with the Trade Bank & Trust Company when it was located on 48th Street and Fifth Avenue, I spent one full year running their Securities Department.

Q Running their securities?

A It was called the Note Teller Department but it was broken down into sections. One end handled notes and collections and the other end handled securities and nothing else and that was the end I handled.

Q Was it part of your duties at that time to handle the transfer and sale of bonds and securities?

A Yes, it was.

Q Including government paper?

A Yes, it was.

Q Did you work for any other banking institution prior to the Trade Bank?

A Yes. When I first started in banking, I worked for the Manufacturers Hanover Trust Company for two years.

Q What did you do there?

A I started there right out of school as a paying-receiving teller and worked in their Rack Department, their Transfer Department.

Q Did you work for any other banks?

A No.

Q When you were working at the Manufacturers Hanover, did you also handle the transfer and sale of securities?

A No, sir, not at all.

Q So that your first contact with the feeling and the transfer and sale of securities as an accommodation for your customers was when you started with the Trade Bank and that continued when you transferred your position to the Royal Bank, is that correct?

A That is correct.

Q In handling the sale of securities as an accommodation for a bank customer does the bank act like sort of

an agent and intermediary in between the customer and the broker that sells the securities?

A Yes. We act as an agent for our customer.

Q You don't act like a holder or an owner of the securities?

MR. HART: That calls for a legal conclusion on the part of the witness. I will not let him answer that.

Q The customer comes in and asks you to sell securities then you contact the broker that acts for the bank, is that correct?

A Correct.

Q The bank doesn't have any title to the paper, that is what I mean.

MR. HART: I am sorry. I am not arguing with you. I just don't think the witness is qualified to draw that conclusion.

MR. KOMOROFF: Off the record.

(Discussion off the record.)

BY MR. KOMOROFF:

Q When did you first begin to understand the sale and transfer of all kinds of stock certificates and securities and government treasury bonds and government treasury notes, when did you first have physical contact

with that?

A When I was employed by the Trade Bank & Trust Company.

Q So that up to 1966, you had then about four or five years of experience in that area?

A No, sir. When I started with the Trade Bank & Trust Company I started in their P & R Department as a teller, when I left Manufacturers. I was a teller there for six months and was promoted into what they call the Note Teller Department. I worked on the other end handling collections, notes, for approximately a year and a half before I went into the securities end and that was approximately one year I spent in the securities section of Trade Bank & Trust.

Q So you had about three years of experience in this field?

A I would say about that.

Q You know what a stock certificate looks like, the front side, the back side?

A Yes.

Q Do you know what a government treasury note looks like, the front side, back side and coupons attached?

A Yes, sir.

Q Did you have many such transactions in the three

A Right.

MR. HART: May I interrupt for a moment to say that Mr. Bajo just called Mr. Bleiwas' office and Mr. Bleiwas' office said they understood that Mr. Bleiwas would be here.

May I suggest we break for a few minutes and Mr. Bajo will go down to the sixth floor and check to see if he is there?

MR. KOMOROFF: At this point we will recess for a few minutes.

(Whereupon, a short recess was taken.)

BY MR. KOMOROFF:

Q When you say stock and securities are bought and sold by the Royal Bank for your customers, how did your department operate with regard to that in August of 1966?

A Well, if a customer of the bank came in and wanted to sell either some securities or treasury bills, he would be referred to an officer of the bank and upon officer approval, we would sell such securities or treasury bills for our customer.

Q The officer would first have to okay the transaction before you would sell?

A Right.

Q That was the officer's authority?

A Exactly.

Q And your department did not have the authority to sell any securities without first getting the approval of an officer?

A No, sir.

Q Are you quite sure about that?

A Positive.

Q I am looking at page 134 of your testimony in the criminal procedure involving Frank Mazzochi and on the fourth line from the bottom in answering the question that I ask you, you stated "We would be like the agent between the customer and the brokerage house."

Would you say that that same answer applied to the question here?

MR. HART: I am sorry, I don't have any objection to the substance of your question. I just don't understand precisely what you are asking the witness.

You referred to the question asked at the criminal trial or the question you asked him at this deposition?

MR. KOMOROFF: I asked him if this sentence, "We would be like the agent between the customer and

the brokerage house," applied to the situation here, because actually I read the same question that the District Attorney asked Mr. Santoro when he was on the stand.

MR. HART: What is your question of this witness, whether that sentence--

MR. KOMOROFF: Applies to the question, if it is in response to the question.

THE WITNESS: To your previous question?

MR. KOMOROFF: Yes.

A Yes, we acted like an agent.

Q Did you participate for customers or on behalf of customers in the sale of any United States treasury notes during August and September of 1966?

A Yes.

Q Did the bank have a broker acting for it in the sale of treasury notes?

A At that time, we were going through Merrill Lynch, Pierce, Fenner & Smith.

Q So that the bank was a customer of Merrill Lynch at that time, in August of 1966?

A Yes.

Q When did you meet Frank Mazzochi, Jr.?

A The first morning he came in with treasury bills

to be sold. I don't remember the exact date.

Q Is that the first time you met him?

A That is the first time I met him as Frank Mazzochi. I had seen him previously in the bank but I had no knowledge of who he was.

Q You just said the first time you met him as Frank Mazzochi.

A Right. In other words, I had seen him in the bank previously but I did not know who he was. The first time he came up to me, he introduced himself as Frank Mazzochi.

Q In other words, that was the first time that verbally there was an exchange of words between you and he?

A Yes, sir.

Q That was the morning when he brought these treasury notes in, am I correct?

A Correct.

Q What knowledge did you have about this man before you had this conversation with him in early August 1966, did you know anything about him?

A I had no knowledge of him whatsoever.

Q You hadn't seen him off the bank premises?

A No, sir.

Q You hadn't spoken to him off the bank premises or anything like that?

A No, sir.

Q And you say he came to your Loan Department?

A Right.

Q Who sent him over or did he come over direct?

A As far as I know, he came over direct.

Q What did he have with him?

A I believe it was a $10,000 treasury bill he said he wanted to sell.

Q What did you do?

A I asked him if he was a customer of the bank, if he had an account with us and he answered that he was an officer of the Mutual Credit Union and I told him it would have to be okayed by an officer before I made any sale.

I took the treasury bill from him and held on to it and referred him out to an officer on the platform.

Q Did you tell him to see Mr. Kayner or did he just select Mr. Kayner?

A I didn't tell him to see Mr. Kayner. I wasn't sure what officers were out there at the time. I just referred him to any officer on that platform.

Q You told him you couldn't act further unless

there was an okay from one of the credit officers?

A Right.

Q What happened after that?

A To my recollection he came back with Mr. Kayner and Mr. Kayner gave me the verbal okay to go through with the sale of the treasury bonds.

He left Mr. Mazzochi at my window and Mr. Mazzochi wrote out an authorization authorizing the bank to sell the treasury bill and I gave Mr. Mazzochi a receipt for the treasury bill.

Q Who wrote out the authorization, was it you or Mr. Mazzochi?

A I don't remember. I would have to see the authorization.

Q Usually what happens, do you write it out or the customer?

A It could be myself or the customer. In normal cases the customer would write it out. I might dictate the wording we would prefer to have used.

Q Did you have any further talk with Mr. Kayner about the authorization for you to sell?

A No further talk. As soon as I typed up the necessary receipts and forms, I brought them out to Mr. Kayner for him to sign. There was no further discussion

between us with regard to Mr. Mazzochi or the treasury bill.

Q Did Mr. Kayner tell you to sell the bonds for Mr. Mazzochi or to sell them for Mr. Mazzochi's family?

A To my recollection, he told me to sell them for Mr. Mazzochi.

Q For Frank Mazzocni?

A Right.

Q Did Kayner tell you anything about the conversation that he had had with Frank Mazzochi before he came over to your window?

A None whatsoever.

Q Was Frank Mazzochi's family mentioned in any way?

A Not that I remember.

Q Did you have any conversation with Frank Mazzochi about who owned the treasury bills?

A None that I remember.

Q Not that morning?

A Not that morning.

Q Or any other time?

A Any other time, either.

Q Fix in your mind, was it that Frank Mazzochi owned this treasury note and other treasury notes he